S. Hrg. 100-276

NOMINATION OF WILLIAM H. WEBSTER

HEARINGS

BEFORE THE

SELECT COMMITTEE ON INTELLIGENCE

OF THE

UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

FIRST SESSION

ON

NOMINATION OF WILLIAM H. WEBSTER, TO BE DIRECTOR OF CENTRAL INTELLIGENCE

WEDNESDAY, APRIL 8; THURSDAY, APRIL 9; THURSDAY, APRIL 30; AND FRIDAY, MAY 1, 1987

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NOMINATION OF WILLIAM H. WEBSTER TO BE DIRECTOR OF CENTRAL INTELLIGENCE

WEDNESDAY, APRIL 8, 1987

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The Select Committee met, pursuant to notice, at 10:13 o'clock a.m., in room SD-628, Dirksen Senate Office Building, Hon. David Boren (chairman of the committee), presiding.

Present: Senators Boren, Nunn, Hollings, Bradley, Cranston, DeConcini, Metzenbaum, Cohen, Roth, Hatch, Murkowski, Specter, Hecht, and Warner.

Staff present: Sven E. Holmes, Staff Director and General Counsel; James Dykstra, Minority Staff Director; and Kathleen McGhee, Chief Clerk.

STATEMENT OF HON. DAVID L. BOREN, A U.S. SENATOR FROM THE STATE OF OKLAHOMA AND CHAIRMAN OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE

Chairman BOREN. The committee will come to order.

We are here today to consider the nomination of William H. Webster to be the Director of Central Intelligence. This hearing itself is a unique occasion. I know of no other Nation where the selection of the top intelligence official would receive so much scrutiny. This process reflects our determination that while a democracy must legitimately protect the secrecy of some information and operations, the intelligence gathering process must still be ultimately accountable to the people through their elected representatives.

Through this confirmation process, our responsibility as the members of the Select Committee is to determine whether this nominee is qualified to serve as the Director of Central Intelligence. Accordingly, it is our responsibility to undertake a careful, thorough and fair examination of the background of this nominee. We do this in troubled times, in the midst of the present investigation by 2 special congressional committees and by an independent counsel of a covert action program involving allegations of illegal or improper activities by high government officials, including the CIA.

This committee and the Senate have a duty to the American people to ensure that the new Director of Central Intelligence will conduct a program of effective intelligence gathering within the framework of our laws and our democratic institutions. It is imperative that the Director of Central Intelligence be a person of exceptional ability and integrity, capable of exercising the independence necessary to protect against any possible misuse of the Agency and its resources.

Judge Webster, I welcome you and feel certain that you recognize the magnitude of the new challenge that you have accepted. I would add to that challenge by asking that in responding to our questions today, you keep in mind the pressing need for this Nation to bring order to the disarray in our foreign policy, and the need for all of us to go forward together in a bipartisan way to constructively address the urgent and important problems which we face.

As DCI, you would have 3 roles to perform: senior intelligence advisor to the President of the United States; coordinator of the entire intelligence community; and Director of the Central Intelligence Agency. I am sure that part of your deliberation concerning your decision to accept this nomination centered upon the tremendous burdens that you know from your experience in counterintelligence, rests on the shoulders of the Director of Central Intelligence.

You have served as the Chairman of the Interagency Group on Counterintelligence, a committee of the National Security Council. The first National Counterintelligence Strategy was developed under your leadership, improving the coordination between the FBI, the CIA, and other related agencies.

If confirmed as DCI, you will chair the Senior Interagency Group on Intelligence of the National Security Council, which greatly increases your responsibilities to further develop the overall National Intelligence Strategy. We must continue to concentrate on long-term strategic planning to meet the ever expanding need for timely and accurate information.

The competing demands upon the budget and the limited resources we have available make this job even more difficult. Great advances have been made in our intelligence capabilities, but we must continue to invest in this most important endeavor.

Our entire intelligence effort depends upon dedicated and professional career personnel, and this requires concentrated attention to improve career incentives and training in order to recruit the best possible available talent, and also to retain present valued employees. And this committee has again and again put emphasis on the personnel system and the need to continue to upgrade it and improve it.

There appears to be some progress in the ongoing arms control talks between the United States and the Soviet Union. That makes it imperative for us to analyze the present methods of verification and to correct any shortcomings in order to guarantee our national security. And if you are confirmed to this post as Director of Central Intelligence, of course those of us who serve on this committee jointly have a heavy responsibility in the area of assuring the ability to verify any arms control agreement.

This committee is interested in your activities with respect to the Iran-Contra matter, and we appreciate your responding to some written questions that the Vice Chairman and I sent to you to supplement the standard committee questionnaire for nominees. We have also received letters regarding your nomination from Representative Don Edwards, Chairman of the House Judiciary Subcommittee that oversees the FBI, and from Representative Pat Schroeder. Both are concerned about recent allegations of improper FBI activity. In addition, we have received statements from the Center for Constitutional Rights, the National Committee Against Repressive Legislation, and from the Arab American Institute. Without objection, these statements and letters will be placed in the record at this point.

[The documents referred to follow:]

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC, April 1, 1987.

Judge WILLIAM WEBSTER,
Director, Federal Bureau of Investigation,
J. Edgar Hoover Building, Washington, DC.

DEAR JUDGE WEBSTER: The Senate Select Committee on Intelligence has an important responsibility to consider your nomination as Director of Central Intelligence in a comprehensive manner. As you know, we are especially interested in any role you may have had in matters that are currently under investigation by two special Congressional committees and an independent counsel.

In the course of preparation for the hearing on your nomination, the Committee has received information that you were advised as early as July, 1986, of the existence of the operation to transfer arms to Iran pursuant to a Presidential Finding. A complete record of your knowledge and involvement would greatly assist the Committee's consideration of your nomination.

Therefore, we are submitting herewith a supplement to the questionnaire that is normally completed by nominees considered by this Committee. These additional questions are intended to provide a comprehensive record with respect to topics of special concern that are presented by these unique circumstances. We request that your sworn responses to these supplemental questions be provided to the Committee as soon as possible in order that they may be available prior to the date of your confirmation hearing. Of course, if portions of the responses are classified, such responses should be submitted separately.

Thank you for your cooperation.

Sincerely,

DAVID L. BOREN,
Chairman.
WILLIAM S. COHEN,
Vice Chairman.

QUESTIONNAIRE SUPPLEMENT

1. On what date did you first learn information, either directly or indirectly, from sources other than public media, regarding the sale of arms to Iran. Describe that information, and what actions you took, directed or advised upon learning such information?

2. Since the date set forth in your response to question number 1 above, through November 26, 1986, state what information that you have subsequently learned, either directly or indirectly, from sources other than public media, regarding the sale of arms to Iran. State when you learned such information, describe such information and describe what actions you took, directed or advised upon learning such information.

3. On what date did you first learn information, either directly or indirectly, from sources other than public media, regarding activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law. Describe that information, and what actions you took, directed, or advised upon learning such information?

4. After the date set forth in your response to question number 3 above, through November 26, 1986, state what information you learned, either directly or indirectly, from sources other than public media, regarding activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law. De-

scribe that information, state when you learned such information and describe what actions you took, directed or advised upon learning such information. Please include in your response any information known to you with respect to activities involving Southern Air Transport.

5. Describe any information that you received or conversations that you had on or before November 26, 1986, regarding any inquiry by or on behalf of the Attorney General concerning U.S. arms transfers to Iran, the possible diversion of proceeds from such transfers to the Nicaraguan resistance and any activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law. State when and how you learned such information, or describe any such conversations and state what actions, if any, you took, directed or advised upon learning such information or upon having such conversations? As part of your response, please state whether or not you advised the Attorney General as to whether such inquiry should be treated as a criminal investigation.

6. Describe any information presently known to you, either directly or indirectly, concerning any intelligence activities that you have reason to believe may be unlawful or contrary to Executive Order, which have not been reported to the Intelligence Oversight Board, or any activities by U.S. intelligence officials, including, without limitation, FBI, CIA, and NSC personnel, which may involve violation of any federal criminal law which have not been reported to the Attorney General.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington DC, April 6, 1987.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Washington, DC.

DEAR MR. CHAIRMAN: This is in response to the letter from yourself and Vice Chairman William S. Cohen to me dated April 1, 1987, which enclosed a "Questionnaire Supplement."

I have enclosed an unclassified response which addresses the six additional questions posed.

Sincerely,

WILLIAM H. WEBSTER, *Director.*

Enclosure.

The following information is supplied in response to United States Senate Select Committee on Intelligence Supplemental Questionnaire provided by letter to me dated April 1, 1987 signed by David L. Boren, Chairman, and William S. Cohen, Vice Chairman.

Question 1. On what date did you first learn information, either directly or indirectly, from sources other than public media, regarding the sale of arms to Iran. Describe that information, and what actions you took, directed or advised upon learning such information?

Answer. On or around August 5, 1986, following a briefing by the Criminal Investigative Division, Executive Assistant Director Oliver B. Revell asked to speak privately with me. Mr. Revell is my representative on the Operations Sub-Group (OSG), Terrorist Incident Working Group (TIWG) of the National Security Council (NSC). Mr. Revell advised that he had learned at a regular meeting of the OSG of an on-going strategic initiative authorized by the President toward an element of the Iranian Government.

Lt. Colonel Oliver North, the NSC Coordinator for the TIWG, had advised the OSG members of the President's concern with the strategic importance of Iran and the need for the United States to have an ability to deal with a post-Khomeini regime. Lt. Colonel North had advised that the President had authorized a covert initiative to make contact with an element of the Iranian Government. North had further advised that in order to show the good faith of the American Emissaries and their backing by the President, the President authorized a shipment of a small number of anti-tank missiles and other spare parts. As part of this initiative, the Iranian group had agreed to use their influence to obtain the release of American hostages held by radical Shia elements in Lebanon.

Mr. Revell also advised me that Lt. Colonel North had stated that the Attorney General had reviewed and approved the Presidential finding and that the initiative had been reviewed by the NSC members. Thus, I became aware that the initiative was on-going, but I did not know when it had originated. Because the initiative as described to me represented an apparent departure from the public position of the

United States with respect to international terrorism, and in order to confirm that such actions were supported by a Presidential finding, I concluded that I should discuss this with the Attorney General. I do not recall the exact date that I was able to discuss this with him personally, but it was shortly following receipt of the information from Mr. Revell, possibly the same day. I do recall that following a meeting in the Attorney General's dining room, I asked to speak to him for a few moments in his adjacent office. I told him that I had become aware through the OSG meetings that there was an Iranian initiative involving the shipment of arms and had been informed that it was supported by a Presidential finding which he had reviewed. I told him my purpose of inquiring was to be sure of his awareness and approval of the actions taken. The Attorney General advised me that he was indeed aware of the initiative and that he had reviewed a finding although it may have been a draft finding.

Mr. Revell had told me that the FBI had not been asked to take any action to support the initiative and since the Attorney General had confirmed his awareness and approval of the initiative, there were no further actions indicated. I informed Mr. Revell of my conversation with the Attorney General. To my knowledge this information was not disseminated to any other officials in the FBI, until after the President's televised speech on November 13, 1986.

Since the 1979 abdication of the Shah of Iran and the establishment of the Islamic Republic of Iran, the FBI has received and investigated several allegations of arms trafficking to Iran. In addition, some U.S. Customs investigations have also come to FBI attention and other FBI investigations were ultimately referred to U.S. Customs. To my knowledge none of the above investigations surfaced allegations or information involving U.S. Government sanctioned arms shipments to Iran.

Question 2. Since the date set forth in your response to question number 1 above, through November 26, 1986, state what information that you have subsequently learned, either directly or indirectly, from sources other than public media, regarding the sale of arms to Iran. State when you learned such information, describe such information and describe what actions you took, directed or advised upon learning such information.

Answer. On September 18, 1986, I submitted a request to the Attorney General for authorization to provide assistance within the United States to another U.S. agency concerning efforts to obtain the release of American hostages held in Lebanon. There was no indication in the information provided to the FBI concerning this request that any sale of arms to Iran was involved.

On October 14, 1986, following my return to FBI Headquarters after several days absence from the city, I was informed by Executive Assistant Director Revell that he had received a telephone call on October 8, 1986, from Lt. Colonel North while Mr. Revell was attending a convention of the International Association of Chiefs of Police in Nashville, Tennessee. According to Mr. Revell, North had advised him that a civilian C-123 aircraft, allegedly of American registry, had crashed in Nicaragua. North stated that he had learned earlier that day that FBI Agents were reported to have visited the offices of the Southern Air Transport Company in Miami, Florida, in connection with the crash. North was concerned that FBI Agents conducting the investigation might inadvertently discover that Southern Air Transport Company was involved in the situation concerning the hostages previously disclosed by North to Revell. Colonel North wanted to emphasize to Revell and to me that the negotiation process was at a very critical stage and that any inadvertent disclosure could have serious adverse results. I took no personal action with respect to this information. Executive Assistant Director Revell had already contacted the Miami Field Office to ascertain the nature of the FBI inquiry and to obtain a teletype report.

After conferring with Floyd Clarke, Assistant Director, Criminal Investigative Division, on October 30, 1986, I honored a request by the Attorney General to suspend for ten days any nonurgent work on a separate preliminary inquiry into a possible Neutrality Act violation involving Southern Air Transport, due to pending sensitive hostage negotiations. Authority to resume the inquiry was subsequently obtained November 20, 1986.

On October 31, 1986, I was informed by Mr. Revell that hostage negotiations were expected to result in the release of hostages in the near future and that an FBI hostage debriefing team was being placed on immediate standby for deployment if hostages were released. This information required no action on my part.

On or about November 11, 1986, newspaper articles began to appear revealing the Iranian arms sales. This was followed by a series of statements by various public officials including a televised report by the President. I received no additional factural information about the arms sales by U.S. officials or U.S. agencies to Iran until after the press conference by the President and the Attorney General on Tuesday, November 25, 1986, which publicly disclosed that funds from the arms sales may have been diverted to the Nicaraguan Contra organization.

Following the press conference, I met with the Attorney General, and the details of this meeting on November 25 are discussed in my response to question number 3.

Question 3. On what date did you first learn information, either directly or indirectly, from sources other than public media, regarding activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law. Describe that information, and what actions you took, directed, or advised upon learning such information?

Answer. Since the fall of the Somoza regime, the FBI has conducted a number of investigations in which allegations were made of illegal aid to the Contras—but none to my knowledge involved U.S. officials providing illegal or unauthorized assistance. The first knowledge I had of any possible activity by U.S. officials providing illegal or unauthorized assistance came to me during the press conference of the President and the Attorney General on November 25, 1986, and at the meeting in the Attorney General's office immediately following. The Attorney General had reported that a document had been located in Lt. Colonel Oliver North's records indicating a proposal to divert Iranian arms funds to the Contras. He advised that Colonel North and Admiral Poindexter had been interviewed over the weekend along with other members of the National Security Council and the National Security Council staff. At the meeting, the Attorney General advised that he had given the Criminal Division of the Department of Justice the responsibility for ascertaining what laws if any may have been violated. He advised me that as soon as that information was complete he would determine whether to authorize a criminal investigation by the FBI. There was a discussion of how best to preserve the records, and the Attorney General stated that the Department would undertake to advise the appropriate offices to preserve and to protect their records.

I returned to my office and met with Executive Assistant Director Revell and Assistant Director (Criminal Division) Floyd I. Clarke. I reviewed the discussion with them, advised them that I anticipated authority to open the investigation shortly and asked them to prepare to move promptly when so authorized. On Wednesday morning, November 26, 1986, I received a telephone call from the Attorney General authorizing the FBI to commence its investigation. I immediately communicated this information to Assistant Director Floyd Clarke and the investigation began. Mr. Clarke met later in the day with the Department of Justice officials. The FBI thereafter continued its investigation unabaited by the announcement of the appointment of an Independent Counsel. Following this assumption of responsibilities, a team of Special Agents was detailed to assist the Independent Counsel.

Question 4. After the date set forth in your response to question number 3 above, through November 26, 1986, state what information you learned, either directly or indirectly, from sources other than public media, regarding activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law. Describe that information, state when you learned such information and describe what actions you took, directed or advised upon learning such information. Please include in your response any information known to you with respect to activities involving Southern Air Transport.

Answer. This question is answered by my response to #2 and #3.

Question 5. Describe any information that you received or conversations that you had on or before November 26, 1986, regarding any inquiry by or on behalf of the Attorney General concerning U.S. Arms transfers to Iran, the possible diversion of proceeds from such transfers to the Nicaraguan resistance and any activities by U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law. State when and how you learned such information, or describe any such conversations and state what actions, if any, you took, directed or advised upon learning such information or upon having such conversations? As part of your response, please state whether or not you advised the Attorney as to whether such inquiry should be treated as a criminal investigation.

Answer. This question is answered in question number 3. I did not specifically advise the Attorney General whether the inquiry he had been asked to undertake by the President should be treated as a criminal investigation. On November 21, 1986, when the Attorney General informed me of this productive inquiry, I knew of no facts suggesting criminal activity, and he stated that he knew of none either. My offer of assistance at that time was more in terms of providing manpower and support for his inquiry.

Question 6. Describe any information presently known to you, either directly or indirectly, concerning any intelligence activities that you have reason to believe may be unlawful or contrary to Executive Order, which have not been reported to the Intelligence Oversight Board, or any activities by U.S. intelligence officials, including, without limitation, FBI, CIA, and NSC personnel, which may involve violation of any federal criminal law which have not been reported to the Attorney General.

Answer. None. No such information is known.

AFFIDAVIT

I, William H. Webster, do swear that the answers I have provided to this questionnaire are, to the best of my knowledge, accurate and complete.

William H. Webster.

April 6, 1987.

Marguerite F. Devine.

My Commission Expires 12/14/88.

Select Committee on Intelligence, U.S. Senate

QUESTIONNAIRE FOR COMPLETION BY PRESIDENTIAL NOMINEES

Part A—Biographical information

1. Name: William Hedgcock Webster.

2. Date and place of birth: March 6, 1924, St. Louis, Missouri.

3. Marital status: Widower.

4. Spouse's name: Drusilla.

5. Spouse's maiden name if applicable: Lane.

6. Names and ages of children: Drusilla Webster Busch, 33; William H. Webster, Jr., 31; Katherine Webster Roessle, 26.

7. Education since high school:

Amherst College, 1941-43; 1946-47, A.B., 5/47.
Williams College, 1943, V-12 U.S.N.R.
Columbia University, 3/44-6/44, Midshipmen's School.
Washington University Law School, 1947-49, J.D., 5/49.

8. Employment record (list all positions held since college, including military service. Indicate name of employer, position title or description, location, and dates of employment):

U.S. Navy, Lt. Junior Grade, Pacific, 7/43-10/48.
McDonald & Wright, Part-time during law school, St. Louis, MO, 1949.
Cobbs, Armstrong, Teasdale & Roos, Associate, St. Louis, MO, 1949-50.
U.S. Navy, Lt. Senior Grade, Far East, 1950-52.
Armstrong, Teasdale Kramer & Vaughan, Partner, St. Louis, MO, 1952-60; 1961-70.
U.S. Dept. of Justice, U.S. Attorney, St. Louis, MO, 1960-61.
Judiciary, U.S. District Judge, St. Louis, MO, 1971-73.
Judiciary, U.S. Circuit Judge, Eighth Circuit, 1973-78.
U.S. Dept. of Justice, FBI Director, Washington, DC, 1978-Present.

9. Government experience (indicate experience in or association with Federal, State or local governments, including advisory, consultative, honorary or other part-time service or position. Do not repeat information already provided in answer to question 8):

Member, Missouri Board of Law Examiners—appointed by Supreme Court of Missouri, Jefferson City, MO (part-time), 1964-1969.

Chairman, St. Louis County Decent Literature Commission, appointed by St. Louis County Supervisors & confirmed by County Council under Decent Literature Code (part-time) 1963-1969.

St. Louis County Public Defender Advisory Board. Member designated by Metropolitan Bar Association (part-time), 1962-1970.

Member of Ad Hoc Committee on Habeas Corpus, Washington, DC, 1975-1978.

Member, Advisory Committee on Federal Rules of Criminal Procedure, Washington, DC, 1971-1978. (Chairman 1977-789).

10. Honors and awards (provide information on scholarships, fellowships, honorary degrees, military decoration, civilian service citations, or any other special recognition for outstanding performance or achievement):

Honorary degrees:

Amherst College, Amherst, MA.
DePauw University, Greencastle, IN.
William Woods College, Fulton, MO.
Drury College, Springfield, MO.
Washington University, St. Louis, MO.
Columbia College, Columbia, MO.
University of Dayton School of Law, Dayton, OH.
University of Notre Dame, South Bend, IN.
Centre College, Danville, KY.
Dickinson School of Law, Carlisle, PA.
University of Miami, Coral Gables, FL.
DePaul University, Chicago, IL.
The American University, Washington, DC.
John Jay College of Criminal Justice, New York City.

Awards and other citations:

Man of the Year, 1980 by the St. Louis Globe-Democrat.
William Greenleaf Elliott Award from Washington University, 1981.
Riot Relief Fund Award, New York City, 1981.
Fordham Law School Louis Stein Award, 10/82.
International Platform Association Theodore Roosevelt Award for excellence in public service, 8/83.
American University William Moss Award, 1/83.
Jefferson Award for the Greatest Public Service by an Elected or Appointed Official, 6/84.
Freedoms Foundation, Valley Forge, PA, National Service Medal, 5/85.
Patrick V. Murphy Award from Police Foundation, for distinguished service in law enforcement, 5/85.
Father of the Year for Public Service, by the National Father's Day Committee, 5/86.
Thomas Jefferson Award in Law from the University of Virginia, 1986.

11. Organizational affiliations (list memberships in and offices held within the last ten years in any professional, civic, fraternal, business, scholarly, cultural, charitable or other similar organizations):

Academy of Missouri Squires, Jefferson City, MO, Nonprofit, 1982-present, Member.
Alfalfa Club, Washington, DC, Nonprofit, 1/79-present, President, 1/83-1/84
Alibi Club, Washington, DC, Nonprofit, 1982-present, Member.
American Bar Association, Chicago, IL, Law, 1953-present, Member.
American Bar Assoc., Corporation Section, Chicago, IL, Law, 1968-present, Chairman, 1977-78.
American Law Institute, Philadelphia, PA, Law Ed., 1978-present, Council Member.
American University, Washington, DC, University, 1982-present, National Advisory Bd.
American Bar Foundation Fellow, Chicago, IL, Law, 1968-present, Life Member.
Amherst Alumni Assn., Amherst, MA, College, 1947-present, President, St. Louis, 1966-68, VP 1969-70.
Arlington, "Y", Arlington, VA, Athletic, 1978-present, Member.
Delta Sigma RHO, Amherst, MA, Forensic Fraternity, 1947-present, Member.
District of Columbia Bar, Washington, DC, Law, 1/81-present, Member.
Federal Bar Assn., Washington, DC Law, 1960-, Member.
International Tennis, Tennis Foundation & Hall of Fame, Inc., Newport, RI, Nonprofit, 1980-present, Member, Bd. of Directors Advisory Comm.
International Assn. Chiefs of Police, Gaithersburg, MD, Law Enforcement 1978-present, Member.
Institute of Judicial Administration, New York, NY, Law, 1985-present, President.
Jefferson National Expansion Memorial Assn., St. Louis, MO, Nonprofit, 1960's-present, Trustee.
Metropolitan St. Louis Bar Association, St. Louis, MO, Law, 1949-present, Member.
Missouri Bar Integrated, Jefferson City, MO, Law, 1949-present, Member.
National Academy of Public Administration, Washington, DC, Nonprofit, 1981-present, Member.
Order of the COIF, Wash. U. Law School, St. Louis, MO, Nat. Law 1949-present, Member.

Noonday Club, St. Louis, MO, Nonprofit, 1950's-present, Non-resident.

PSI Upsilon, Amherst, MA, Fraternity, 1945-present, Member.

PHI Delta PHI, St. Louis, MO, Law Fraternity, Member.

Rotary Club, St. Louis, MO, Nonprofit, 1971-present, Member & Hon. Member.

St. Albans Tennis Club, Washington, DC, Athletic, 1978-present, Member.

St. Louis Country Club, St. Louis, MO, Nonprofit, 1967 to present, Non-resident Member.

University of Chicago Law School, Chicago, IL, University, 11/81–9/84, Board of Visitors.

University of Colorado School of Law, Boulder, CO, University, 1983-present, Board of Visitors.

Washington University, St. Louis, MO, University, 1974-present, Trustee.

Washington University, Alumni Federation, St. Louis, MO, University, 1949-present, Past President.

Washington University Law Alumni, St. Louis, MO, Universtiy, 1949-present, President, 1962–63.

Question 12. Published writings and speeches (list the titles, publishers, and publication dates of any books, articles, reports or other published materials you have authored. Also list the titles of any public speeches you have made within the last 10 years for which there is a text or transcript. To the extent possible, please provide a copy of each such publication, text or transcript:

Answer. Submitted separately. Judicial opinions are found in West's Federal Supplement and West Federal Reporter.

Part B—Qualifications and references

Question 13. Qualifications (describe why you believe you are qualified to serve in the position for which you have been nominated):

I have completed nine years as Director of the FBI.

In addition to administering an organization similar in many respects to the CIA, I have served as Chairman of the working Group on Counterintelligence (IG–CI) and as a member of the Special Interagency Group on Intelligence (SIG–I).

My responsibilities have placed me in contact with most of the operational counterparts of the CIA in the free world.

Question 14. References (provide the names and business addresses and telephone numbers of five individuals whom you believe are in a position to comment on your qualifications to serve in the position for which you have been nominated. Include three individuals who have known you for at least five years):

Answer. Hon. Peter B. Bensinger, Bensinger, DuPont & Assoc., 20 North Wacker Drive, Chicago, IL, 312-726-8620, 9 years.

Walter M. Clarke, Esq., Armstrong, Teasdale, Kramer, & Vaughan, Suite 1950, 611 Olive Street, St. Louis, MO, 314-621-5070, 60 years.

Hon. Lloyd N. Hand, Verner, Liipfert, Bernard, McPherson & Hand, Suite 1000, 1660 L Street, NW, WDC 202-452-7400, 9 years.

Former Chief Justice Warren Burger, U.S. Supreme Court Bldg., Washington, DC, 202-479-3362, 16 years.

Hon. James W. Symington, O'Connor & Hannan, Suite 800, 1919 Pa. Ave., Washington, DC, 202-887-1400, 25 years.

Part C—Political and foreign affiliations

Question 15. Political activities (list any memberships or offices held in or financial contributions or services rendered to, any political party, election committee, political action committee, or individual candidate during the last ten years):

None.

Question 16. Candidacy for public office (furnish details of any candidacy for elective public office):

Answer. None.

Question 17. Foreign affiliations (Note: Questions 17 A and B are not limited to relationships requiring registration under the Foreign Agents Registration Act. Questions 17 A, B and C do not call for a positive response if the representation or transaction was authorized by the United States Government in connection with you or your spouse's employment in Government service.)

(A) Have you or your spouse ever represented in any capacity (e.g., employee, attorney, business, or political adviser or consultant), with or without compensation, a foreign government or an entity controlled by a foreign government? If so, please fully describe such relationship.

Answer. No.

(B) If you or your spouse has ever been formally associated with a law, accounting, public relations firm or other service organization, have any of you or your spouse's associates represented, in any capacity, with or without compensation, a foreign government or an entity controlled by a foreign government? If so, please fully describe such relationship.

Answer. No.

(C) During the past ten years have you or your spouse received any compensation from, or been involved in any financial or business transactions with, a foreign government or an entity controlled by a foreign government? If so, please furnish details.

Answer. No.

(D) Have you or your spouse ever registered under the Foreign Agents Registration Act? If so, please furnish details.

Answer. No.

Question 18. Describe any lobbying activity during the past ten years, other than in an official U.S. Government capacity, in which you or your spouse have engaged for the purpose of directly or indirectly influencing the passage, defeat or modification of legislation at the national level of Government, or for the purpose of affecting the administration and execution of national law or public policy.

Answer. None.

Part D—Financial disclosure and conflict of interest

Question 19. Describe any employment, business relationship, financial transaction, investment, association or activity (including, but not limited to, dealings with the Federal Government on your own behalf or on behalf of a client), which could create, or appear to create, a conflict of interest in the position to which you have been nominated.

Answer. None.

Question 20. Do you intend to sever all business connections with your present employers, firms, business associates and/or partnerships or other organizations in the event that you are confirmed by the Senate? If not, please explain.

Answer. I intend to retain connections with the charitable, educational and professional organizations listed in #11.

I have no business connections, etc., referred to above.

Question 21. Describe the financial arrangements you have made or plan to make, if you are confirmed, in connection with severance from your current position. Please include severance pay, pension rights, stock options, deferred income arrangements, and any and all compensation that will or might be received in the future as a result of your current business or professional relationships.

Answer. As a Government employee, my government benefits and interests will not be affected by the new position.

Question 22. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the Government? If so, please furnish details.

Answer. No.

Question 23. As far as can be foreseen, state your plans after completing Government service. Please specifically describe any agreements or understandings, written or unwritten, concerning employment after leaving Government service. In particular, describe any agreements, understandings or options to return to your current position.

Answer. As far as can be foreseen, I will most probably return to private law practice. I have no agreements or understandings, written or unwritten.

Question 24. If you are presently in Government service, during the past five years of such service, have you received from a person outside of Government an offer or expression of interest to employ your services after you leave Government service?

Answer. From time to time law firms and corporations have expressed an interest in me when I should leave Government service. Some made offers. None were accepted.

Question 25. Is your spouse employed? If the nature of this employment is related in any way to the position for which you are seeking confirmation, please indicate your spouse's employer, the position and the length of time the position has been held. If your spouse's employment is not related to the position to which you have been nominated, please so state.

Answer. N.A.

Question 26. List below all corporations, partnerships, foundations, trusts, or other entities toward which you or your spouse have fiduciary obligations or in which you or your spouse have held directorships or other positions of trust during the past five years.

Answer. See attached list.

Washington University, Trustee, 1974–present, Self.

Jefferson National Expansion Memorial, Trustee, 1960's–present, Self.

American Bar Foundation, Life fellow, 1968–present, Self.

American Law Institute, Council Member, 1978–present, Self.

Institute of Judicial Administration, President, 1985–present, Self.

Alfalfa Club, Past President, 1/83–1/84, Self.

American University, National Advisory Board, 1982–present, Self.

Big Brothers/Big Sisters of America, Honorary Board Member, 1958–78, Self.

International Tennis Foundation & Hall of Fame, National Board Advisory Committee, 1978–present, Self.

University of Colorado, Law School Visiting Committee, 1983–present, Self.

Washington Area Tennis Patrons Foundation, Board of Directors, 1981–1984, Spouse.

Question 27. List all gifts exceeding $500 in value received during the past five years by you, your spouse, or your dependents. Gifts received from relatives and gifts given to a spouse or dependent totally independent of their relationship to you need not be included.

Answer. No, other than as beneficiary of spouse's estate.

Question 28. List all securities, real property, partnership interests, or other investments or receivables with a current market value (or, if market value is not ascertainable, estimated current fair value) in excess of $1,000. (Note: the information provided in response to Schedule A of the disclosure forms of the Office of Government Ethics may be incorporated by reference, provided that current valuations are used.)

Answer. Disclosure form—incorporated by reference.

Question 29. List all loans, mortgages, or other indebtedness (including any contingent liabilities) in excess of $10,000. (Note: The information provided in response to Schedule D of the disclosure form of the Office of Government Ethics may be incorporated by reference, provided that contingent liabilities are also included.)

Answer. None.

Question 30. Are you or your spouse now in default on any loan, debt or other financial obligation? Have your or your spouse been in default on any loan, debt or other financial obligation in the past ten years? If the answer to either question is yes, please provide details.

Answer. No.

Question 31. List sources and amounts of all income received during the last five years, including all salaries, fees, dividends, interest, gifts, rents, royalties, patents, honoraria, and other items exceeding $500. (If you prefer to do so, copies of U.S. income tax returns for these years may be substituted here, but their submission is not required.)

	1981	1982	1983	1984	1985
Salary	$60,663	$60,993	$69,800	$72,600	$75,100
Fees, royalties	4,086	7,476	3,742	1,299	
Dividends	46,177	44,879	45,835	32,916	23,156
Interest	33,026	29,794	28,325	29,495	26,301
Gifts					
Rents:					
Farm	(8,610)	(1,968)	(4,877)	(4,838)	(4,227)
Other—exceeding $500	7,731	(965)	7,941	2,100	417
	(CG)	(CG)	(CG)	(CG)	1,000.(H)
Total	151,683	143,142	155,643	138,410	125,974

Question 32. If asked, would you provide the committee with copies of your and your spouse's Federal income tax returns for the past three years?

Answer. Yes.

Question 33. Have your Federal or State tax returns been the subject of any audit, investigation or inquiry at any time? If so, please provide details, including the result of any such proceeding.

Answer. No.

Question 34. Attach a schedule itemizing each individual source of income which exceeds $500. If you are an attorney, accountant, or other professional, also attach a schedule listing all clients and customers whom you billed more than $500 worth of services during the past five years.

Answer. See Schedule A of Financial Disclosure Form.

Question 35. Do you intend to place your financial holdings and those of your spouse and dependent members of your immediate household in a blind trust? If yes, please furnish details.

Answer. My investment holdings other than cash and real property (farm) are currently in a living trust. I intend to enter into an agreement with corporate trustee to satisfy the purposes of a blind trust except as to shares of Edison Bros. Stores, Inc., which I do not desire sold without my consent.

Question 36. Explain how you will resolve any actual or potential conflicts of interest that may be indicated by your response to the questions in this part or in part C (questions 15 thru 35).

Answer. No conflict identified. Should any potential conflict develop, I would employ recusal and other approaches recommended by CIA counsel.

Part E—Ethical matters

Question 37. Have you ever been disciplined or cited for a breach of ethics for unprofessional conduct by, or been the subject of a complaint to, any court, administrative agency, professional association, disciplinary committee or other professional group? If so, provide details.

Answer. Not to my knowledge.

Question 38. Have you ever been investigated, held, arrested, or charged by any Federal, State, or other law enforcement authority for violation of any federal, State, county, or municipal law, regulation, or ordinance, other than a minor traffic offense, or named either as a defendant or otherwise in any indictment or information relating to such violation? If so provide details.

Answer. No.

Question 39. Have you ever been convicted of or entered a plea of guilty or nolo contendere to any criminal violation other than a minor traffic offense? If so, provide details.

Answer. No.

Question 40. Are you presently or have you ever been a party in interest in any administrative agency proceeding or civil litigation? If so, provide, details.

Answer. The following instances concern those situations where I was a party in interest in the proceedings mentioned above which were not connected to my duties as Director of the FBI.

In 1961, I was erroneously named a defendant as an alleged last member of the board of directors of a corporation whose charter had lapsed. The suit was a collection matter. I had resigned in 1959, was not representing the company at the time and plaintiff's attorney promptly dismissed as to me when this was called to his attention.

In 1964 an action was instituted in the United States District Court for the Eastern District of Missouri, Cause No. 64 C 113(2), by Consumers Financial Corporation against Walter F. Roos and all the partners in my law firm, Armstrong, Teasdale, Roos, Kramer and Vaughn. I was named as a party defendant although there was no allegation I was involved in any of the matters alleged. William Erickson, the principal of Consumers Financial Corp., was competing with another group led by Burch Williams for control of Associated Fund, Inc. The law firm held 249 shares of Associated Fund, and Walter Roos held one qualifying share as a director. The law firm sold its 249 shares to the Burch Williams group, and William Erickson and Consumers Financial alleged that the firm breached a contract to sell the shares to Erickson. Plaintiffs sought specific performance of the contract allegedly breached. The case was dismissed when the Erickson group offered to buy all the stock of Associated Fund and all the shares were purchased. In addition Erickson's group paid $250,000 to all the shareholders. Walter Roos and the law firm paid no money.

While a Judge of the United States District Court for the Eastern District of Missouri (1971–1973), I was informed I had been named as a co-defendant in a civil rights complaint filed in the United States District Court by three prisoners against Judge Wangelin, Marshal Link, Warden Lark and Sheriff Edwards. The complaint as to me seemed to allege that I was an agent for the black power movement in the city jail. The prayer for relief asked that I be enjoined from hearing another suit in which some of the plaintiffs were parties. The allegations against me had no foundation in fact. I was never served and the matter was never pursued against me. I have been advised that the case was dismissed on April 27, 1973.

I was also named in a mandamus action by a petitioner, following my issuance of a permanent injunction against him which was affirmed by the Eighth Circuit. 462

F.2d 897. The mandamus was dismissed by the Supreme Court. 72-5854, February 20, 1973, 41 U.S.L.W. 3449.

I was named as a defendant in a civil action brought by a prisoner seeking to enjoin me from sitting as a trial judge in his civil rights case against a Southern Missouri sheriff. Another District Judge dismissed that case as frivolous. The civil rights case resulted in a jury verdict for the defendant. My refusal to disqualify myself was affirmed upon appeal.

In 1977, I was named with other as a co-defendant in a real estate quiet title action brought to clear title to land once owned by a corporation in which I had an interest. Since I claimed no interest in this land, and, therefore, was not really a party in interest, I did not enter an appearance or file a pleading in that case. I was never aware of the outcome of the suit which, by its very nature, had no effect on me.

Additionally, during my tenure as Director of the FBI I have been named in numerous lawsuits, both in my official and individual capacities. A description of past and pending litigation in which I have been named as a defendant, prepared by the FBI Legal Counsel Division, is attached. I have reviewed this and it is complete and accurate to the best of my knowledge and recollection.

U.S. Department of Justice,
Federal Bureau of Investigation,
Washington, DC, March 25, 1987.

Re civil actions in which Federal Bureau of Investigation Director William H. Webster is named as a defendant.

The following information was compiled March 25, 1987, from the records of the Legal Counsel Division of the Federal Bureau of Investigation in conection with Director Webster's appointment to the Central Intelligence Agency. This document provides an explanation of the past and pending civil litigation naming Director Webster as a defendant.

Because of his position as the head of a large Federal bureau, Director Webster is often named in civil actions which seek damages or equitable relief. These cases run the gamut from claims arising from autombile accidents of FBI employees, allegations of violations of constitutional rights arising from FBI investigations to Freedom of Information Act cases and cases arising from FBI personnel actions. Over the Director's nine-year tenure with the FBI, there have been literally hundreds of such cases filed against him but ultimately dismissed. No case has even resulted in any finding of personal liability against the Director.

Suits presently pending against the Director are categorized according to whether the Director is named in his official capacity only (i.e., the Director is named only because he happens to be the head of the Bureau and no personal wrongdoing by him is alleged), suits naming him in his individual capacity (the Director is named and relief is sought from him personally), and suits which name him in both capacities. The numbers of cases pending in each category are:

Official capacity	55
Individual capacity	1
Both capacities	18
Total cases March 25, 1987	74

The official capacity cases consist of 29 Freedom of Infromation Act/Privacy Act cases, 23 tort or other miscellaneous actions, and three Equal Employment Opportunity suits.

Of the remaining pending cases, against the Director personally, only three actually allege in the body of the compliant that the Director himself committed some wrong for which the plaintiff should be compensated. These cases are synopsized below:

1. *Ebun Adelona, et al.* v. *William Webster, et al.* (U.S.D.C., S.D.N.Y.) Civil Action No. 81 CIV 0373

Plaintiffs alleged that FBI searches on April 18-19, 1980, at 92 Morningside Avenue, New York City, in connection with the attempted apprehension of Joanne Chesimard, a fugitive wanted for escape after conviction for murder of a New Jersey state trooper, violated various of the plaintiffs' constitutional rights. Although wrongdoing by the Director was alleged, the complaint is so vague that the nature of the allegations against Director Webster could not be ascertained. For this reason the Director was dismissed from the suit on February 10, 1987, but an appeal may be filed.

2. *Imari Abubak Obadele* v. *William French Smith, et al.* (U.S.D.C., D. D.D.C.) Civil Action No. 80-1844

Plaintiff alleged that the Director and others conspired to violate constitutional rights arising from plaintiff's participation in political activities. Director Webster was dismissed from the suit on June 7, 1984, and the Court of Appeals affirmed his dismissal on June 11, 1986. The suit is still pending as to other Federal defendants, but the dismissal is final as to the Director.

3. *Edwin Montes* v. *Edwin Meese, et al.* (U.S.D.C., S.D. N.Y.) Civil Action No. 86 CIV 8285

Plaintiff, who alleges that he is a mental patient, alleges that Director Webster and others have subjected him to illegal electronic surveillance, subjected him to telepathic surveillance of plaintiff's thoughts, raped him, assaulted him by providing his with adulterated cigarettes, and interfered with his employment by mental telepathy. Plaintiff seeks $50 million in damages plus equitable relief. The suit was dismissed as frivolous on October 30, 1986, and plaintiff entered notice of appeal on November 7, 1986. The appeal is pending in the Second Circuit.

JOSEPH R. DAVIS,
Assistant Director—Legal Counsel.

Question 41. Have you been interviewed or asked to supply any information as a witness or otherwise in connection with any congressional investigation, Federal or State agency proceeding, grand jury investigation, or criminal or civil litigation in the past ten years? If so, provide details.

Answer. In the year prior to beginning my 9-year tenure as Director of the FBI, while a Judge of the United States Court of Appeals for the Eighth Circuit, there was only one instance in which I was subpoenaed to testify in a trial. The trial was between two oil companies. The circumstances was a motion to disqualify an attorney on grounds of conflict of interest. I was asked to give testimony as to whether confidential information had been exchanged between attorneys in a prior oil asphalt conspiracy case in which I was a lead attorney.

With regard to my providing an affidavit or declaration, being interviewed, and providing testimony as a witness in a criminal, civil, or administrative proceeding, a definitive answer cannot be provided from a review of FBI records. Becuase of the manner in which the FBI's criminal, administrative, and legal matter files are indexed and maintained, it is not possible to conduct a search that would definitively establish that all such instances were identified.

However, based on my recollection and the recollections of the only two individuals who have served as Assistant Directors of the FBI's Legal Counsel Division during my tenure, the only recalled instances are recounted below.

A. DEPOSITIONS

In the course of my tenure as FBI Director, I have not been deposed in any criminal, civil, or administrative proceeding.

B. INTERVIEWS

1. *EEO Complaint.*— In one instance recently I did provide to a Department of Justice investigator a signed statement which was requested in connection with an Equal Employment Opportunity (EEO) complaint by an FBI employee. The EEO matter is currently being investigated by the Department of Justice EEO Office, and I have been advised it would not be appropriate for me to provide any details of this pending matter.

2. *In the Matter of Special Prosecutor's Investigation of Raymond Donovan.*—In August 13, 1982, I was formally interviewed by Leon Silverman, who had been appointed as a Special Prosecutor in this matter. The interview concerned information I provided to President Reagan's transition team about Mr. Donovan's organized crime connections. In addition to this formal interview, I had numerous conversations and exchanged written correspondence with Mr. Silverman, as well as congressional committees who were investigating this matter. I never testified before the grand jury investigating this matter. A copy of a summary of the interview obtained from the Special Prosecutor's Supplemental Report to the United States Court of Appeals for the District of Columbia Circuit is attached. A copy of correspondence to Special Prosecutor Silverman and to the Congress regarding this matter, which I signed, is attached.

3. *In the Matter of the Independent Counsel's Investigation of the Suspension of the FBI's Southern Air Transport, Inc. Investigation.*— On December 19, 1986, I was interviewed by Special Agents of the Federal Bureau of Investigation concerning contact I had on October 30, 1986, with Associate Attorney General Stephen S.

Trott, United States Department of Justice. Mr. Trott had contacted me regarding the FBI temporarily suspending its investigation of a Neutrality Act case involving Southern Air Transport, Inc. That investigation and the substance of my interview are both within the investigative jurisdiction of Independent Counsel Lawrence E. Walsh. I have beern advised that Independent Counsel Walsh would object to disclosure of the substance of the interview or to disclosure of any written record or transcript of the interview.

C. AFFIDAVITS AND TESTIMONY

1. *United States* v. *Richard Miller* (U.S.D.C., C.D. California) No. CR 84-972A-Kn.—In this criminal prosecution of a former Special Agent (SA) of the FBI, I furnished a declaration on October 1, 1985 to clarify an aspect of FBI policy and procedure in foreign counterintelligence investigations. SA Miller's attorneys alleged that I could provide information concerning the FBI's "double agent" programs and activities directed against the Intelligence Service of the Soviet Union. A copy of my declaration is attached.

2. *United States* v. *Edward Tickel* (E.D. Va).—This particular case involved a criminal prosecution of a former SA of the FBI, Edward Tickel. Mr. Tickel alleged that he had advised me of two situations where he had installed electronic surveillance equipment in facilities prior to the entry of a Court Order authorizing such installations. I testified on March 11, 1983, as a rebuttal witness for the Government and also provided a declaration. Copies of my testimony and my declaration are attached. Mr. Tickel was subsequently convicted and sentenced to prison.

3. *Testimony in my Private Capacity.*—In 1982, I was subpoenaed as a witness in an action brought in the United States District Court, Eastern District of Missouri, Docket Number 81-112 C(C), by a former client, Vaughn Morrill, Jr., against Becton Dickinson and Company, Rutherford, New Jersey. The purpose of my testimony was in aid of construction of ambiguous clauses in a contract executed and amended during the period 1961-1970. A transcript of my testimony is attached.

4. *Other Instances.*— In addition to the above specifically recalled instances, there have been a few other instances in which I have filed affidavits in civil actions. These occasionally arise from situations in which I am named as a defendant in my personal capacity in a civil action, but where I had absolutely no involvement in the situation which formed the basis for the suit. In order to support a Motion to Dismiss or similar pleading I have on occassion filed affidavit(s) and declarations denying such personal knowledge or action. I have also filed declarations in support of Motions to Dismiss based on lack of personal jurisdiction to sue me. I have not, to the best of my knowledge or recollection, filed any affadavit in a case relating to any private matter during my tenure as Director of the FBI.

D. CONGRESSIONAL TESTIMONY

During my nine-year tenure as Director of the FBI, I have testified before Congressional committees on numerous occasions. This testimony has concerned various matters, including budget appropriations, oversight, and other matters of Congressional inquiry. All testimony occurred while I was engaged in the normal course of my duties as Director of the FBI. A copy of all instances when I testified before Congress is attached.

Question 42. Has any business of which you are or were an officer, director or partner been a party to any administrative agency proceeding or criminal or civil litigation relevant to the position to which you have been nominated? If so, provide details. (With respect to a business of which you are or were an officer, you need only consider proceedings and litigation that occurred while you were an officer of that business.)

Answer. Not to my knowledge.

Part F—Additional information

Question 43. Describe in your own words the concept of congressional oversight of U.S. intelligence activities. In particular, characterize what you believe to be the obligations of the Director of Central Intelligence, the Deputy Director of Central Intelligence, and the intelligence committees of the Congress respectively in this process.

Answer. National security is a shared responsibility. In order for the Congress to be certain that the intelligence activities being carried out by the Administration are lawful, proper and consistent with national security needs, each body has constituted a Select Committee on Intelligence. It is the responsibility of the Director of Central Intelligence, or in his absence, the Deputy Director, to keep the intelligence committees informed of important information and activities developed within the intelligence community on a timely basis. Because such information must not be publicly or widely disseminated, the committees act as surrogates for the Congress and the American people. They react to specific issues, at the same time faithfully preserving the secrets entrusted to them. The key word in the relationship is trust—and the DCI plays an important role in developing and preserving this indispensible ingredient between the intelligence community and the intelligence committees in carrying out their respective responsibilities for the National Security.

Question 44. Define in your own words the duties of the position to which you have been nominated.

Answer. As the President's primary intelligence advisor, the DCI provides objective and relevant intelligence to our Government's policy makers. Because this intelligence serves as the basis for significant foreign policy and national security decisions, the integrity of the intelligence collection and analysis must be absolute. To ensure that the President receives the intelligence necessary to carry out policy objectives, the DCI must encourage the entire intelligence community to exchange all pertinent information. The DCI must promote a free discussion of ideas and foster analytical competition within the intelligence community. The DCI must work to see that the intelligence needs of the respective departments of government are fully understood and effectively addressed within the community.

The DCI has a special and direct responsibility to the Congress. Each Select Committee on Intelligence is an overseer of intelligence activities and programs as well as a partner in ensuring that this intelligence is properly gathered and protected. The DCI, therefore, must provide the Congress, through these committees, the timely, accurate and relevant information required to conduct its legislative and ovesight duties.

Conducting covert operations is one of the most sensitive responsibilities of the DCI. The CIA cannot legally undertake covert action without a Presidential finding, and the American public must have confidence that covert operations will only be undertaken with the proper authority and after a careful consideration of the risks and objectives involved. The DCI must be certain the policy makers are presented with all information necessary for a sound decision. Once the decision is made to carry out a covert oepration, the DCI has the ultimate responsibility to ensure that it is effectively managed and aggressively implemented within the limit of the authority granted to CIA.

The intelligence community is a great national resource. Its effectiveness depends upon the ability of its components to act in concert on issues which transcend individual departments of government. In planning, articulating needs, and coordinating joint efforts, the DCI's leadership role is most significant and national security of the United States.

Question 45. Please advise the committee of any additional information favorable or unfavorable, which you feel should be considered in connection with your nomination.

Answer. None.

AFFIDAVIT

I, William H. Webster, do swear that the answers I have provided to this questionnaire are, to the best of my knowledge, accurate and complete.

William H. Webster.

March 26, 1987.

Marguerite F. Devine.

My Commission Expires 12/14/88.

U.S. House of Representatives,
Committee on the Judiciary,
Washington, DC, March 30, 1987.

Hon. David L. Boren,
Chairman, Select Committee on Intelligence,
U.S. Senate, Hart Senate Office Building, Washington, DC.

Dear Chairman Boren: For some time, the Subcommittee on Civil and Constitutional Rights has been concerned about the FBI's investigations of domestic opponents of Administration policy in Central America. We have questioned FBI Director Webster on this issue in open hearings and have had several closed briefings. Some of our concerns focused on an intensive three and a half year investigation by the FBI of a group known as the Committee in Solidarity with the People of El Salvador (CISPES). The investigation was conducted under the Bureau's counter-intelligence and international terrorism guidelines.

Recently an individual named Frank Varelli, of Dallas, Texas, has come forward to say that he was an informant for the FBI inside CISPES from 1981 to 1984. Varelli asserts that:

(1) The CISPES investigation was opened without any suspicion of criminal activity; it was based just on the fact that CISPES was a left-wing group opposing the Reagan Administration.

(2) FBI agents said they wanted to "break" CISPES. As the investigation progressed, Varelli was supposed to create confusion and distress within the group, to "neutralize" it by "destroying its credibility."

(3) FBI agents carried out break-ins against the CISPES office and the apartment of a CISPES member to obtain documents about the group.

(4) The Bureau sent Varelli to El Salvador to set up a "back channel" information exchange with the El Salvador National Guard. Varelli provided the Guard with information on U.S. opponents of aid to El Salvador and the Guard provided the Bureau with the names of El Salvadorans coming to the U.S. The Bureau also provided the Guard with the names of El Salvadorans who were deported from the U.S. back to El Salvador.

(5) At FBI direction, he compiled a Terrorist Photograph Album, containing pictures and descriptions of, among others, Congressmen and Senators.

Since Varelli's allegations raised serious questions about the FBI's counter-terrorism investigations, we invited Mr. Varelli to testify before the Subcommittee. He did so on February 20th. A copy of his sworn testimony is attached, along with an affidavit he has filed in federal court in Dallas where he is suing the FBI.

The FBI has admitted publicly that Varelli was an informant. It has also acknowledged that Varelli's handling Agent resigned from the Bureau in 1985. The Terrorist Photograph Album is an official FBI form.

Director Webster has promised the Subcommittee a full accounting for Mr. Varelli's allegations and has stated that an intensive investigation is being conducted by the Bureau's Office of Professional Responsibility. However, this investigation is not completed and the Bureau has not responded in detail to the Subcommittee. While the FBI has denied many of Mr. Varelli's allegations, there has been no formal response yet.

I believe that these allegations are pertinent to the confirmation of Judge Webster as Director of Central Intelligence. They raise issues of internal controls and accountability, and have serious implications for the rights of Americans. I would urge you, therefore, to explore them at your hearings. I would be happy to share with you any information in the Subcommittee's possession that might be of use to you.

With kindest regards.

Sincerely,

DON EDWARDS,
Chairman, Subcommittee on
Civil and Constitutional Rights.

Enclosures.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 3, 1987.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence,
Hart Senate Office Building, Washington, DC.

DEAR CHAIRMAN BOREN: The committee has under consideration the nomination of William H. Webster for Director of the Central Intelligence Agency.

The Department of Justice is currently investigating the activities of a former FBI informant and several current and former FBI agents.

These individuals were alledgedly involved in a surveillance campaign of groups and individuals, including members of Congress, critical of administration policies in Central America. The campaign allegedly included providing the El Salvador National Guard with information about the activities and travel of certain U.S. and Salvadoran citizens and the preparation of an FBI Terrorist Photo Album. Said album is alleged to be upwards of 700 pages, some of which depict members of the House and Senate as terrorists.

The extent to which this operation was approved, coordinated, or condoned by top FBI officials is not known because the investigation is not finished. Certainly if Mr.

Webster was even aware of the operation it would raise serious doubts about his judgment and his suitability to direct the CIA.

I oppose, therefore, Mr. Webster's confirmation until such time as this matter is resolved.

Please make this letter a part of the hearing record.

Sincerely,

Pat Schroeder,
Congresswoman.

Congress of the United States,
House of Representatives,
Washington, DC, March 13, 1987.

William H. Webster,
Director, Federal Bureau of Investigation,
Washington, DC.

Dear Mr. Webster: A copy of the enclosed document, "Terrorist Photograph Album, FD-432 (Rev. 2-8-83)" was recently brought to my attention by Douglas R. Larson, the attorney for Frank Varelli.

According to Mr. Larson, blank copies of this document were provided to Mr. Varelli by Daniel Flanagan who was, at the time, an FBI Agent in Dallas. I understand that Mr. Flanagan is no longer with the FBI.

Mr. Larson further advised my office that Agent Flanagan provided Mr. Varelli with the names of elected officials and clergy and, in the case of the official described on the enclosed document, a photograph of said official. Mr. Varelli, using a variety of John Birch Society and other similar material, then completed the "Terrorist Photograph Album," including the "Narrative of Activities." Said document, of which I understand there may be upwards of 700 on other individuals, was then submitted to the FBI.

I understand that Mr. Varelli is currently in litigation with the FBI over, among other issues, a back pay dispute. Apparently there is a difference of opinion between Mr. Varelli and the FBI as to whether he was paid a monthly salary or piece rate.

I would appreciate any light you could shed on the following:

(1) Is this an FBI document?

(2) How many other federal, state, and local officials and members of clergy are the subject of "Terrorist Photo Album" forms? Please provide me with their names.

(3) What were the periods of Mr. Varelli's employment by the FBI and the total value of his compensation?

(4) Which FBI official was in charge of the investigation that Mr. Varelli was participating in? To whom did that official report to?

(5) Was Mr. Varelli provided with internal FBI memoranda, letters, telexes, etc? If so, please specify.

(6) I understand that the investigation may have, in early 1983, changed from an intelligence investigation to a terrorism investigation. Is this correct? If so, who made that decision and why?

(7) What was the reason for Mr. Flanagan's termination from the FBI?

(8) I understand that Mr. Flanagan may be the subject of a current FBI investigation. Is that true and could you describe the nature of the investigation?

(9) Did Mr. Flanagan provide Mr. Varelli with the names and/or photographs of individuals to be the subject of a "Terrorist Photo Album" form?

(10) Once completed by Mr. Varelli, what was the disposition within the FBI of these "Terrorist Photo Album" forms?

(11) Did Mr. Varelli provide, with or without FBI guidance or knowledge, information to El Salvador officials, including National Guard officials, the names of private citizens, elected officials, clergy, nuns, etc., who would be travelling to El Salvador? If so, please provide me with the names and dates of such communications.

I would appreciate a timely response to this inquiry.

Sincerely,

Pat Schroeder,
Congresswoman.

FD-432 (Rev. 2-8-83)

1. Name
PATRICIA SCHROEDER

2. Address
None

3. Date and Place of Birth
July 30th. 1940 Portland, Oregon.

4. Citizenship American	6. Race ☐ White XX ☐ Black ☐ Oriental ☐ Other	7. Height	8. Weight
5. Sex Female		9. Hair Brown	10. Eyes Brown

11. Scars, marks and identifying characteristics
----

12. ☐ Single X Married ☐ Separated ☐ Divorced

13. Residence Denver, Colorado.
Washington, DC.

14. Occupation/Employer (includes academic institutions)
Member of The Hcuse of Representatives
US Congress.DEMOCRAT - Colorado

Date Taken ------------

15. Identifying Information
Passport No. ------ Country of issue ______ Date of issue ______
Social Security No. ______ Alien Registration No. ______
U.S. Person ☒ Yes ☐ No Naturalized U.S. citizen ☐ Yes ☐ No

16. Terrorist affiliation SANDINISTA-Marxist/Leninist Official position Agent of Influence.

17. Narrative of activities

Married to James Schroeder. She has two children. Degree from Harvard. She is openly working on behalf of the Sandinista Goverment in the US. through the NNSNP and CISPES. The NNSNP is The National Network in - Solidarity With the Nicaraguan People. It uses at times the name of Nicaragua Network. Schroeder is actively raising money for the Sandinistas. Schroeder is involved in operation HAND (Humanitarian Aid for Nicaraguan Democracy). She has ties with other pro-Sandinistas members of Congress: Tip O'Neill, Christopher Dodd, Michael Barnes, Ed Boland, Edward Kennedy, Ron Dellums. WARNING. She could be the target of right wing groups. Strong resentment in right wing circles in the US and El Salvador against her (Schroeder). Advise if she travels abroad.

SECRET SECRET SECRET

Office of Origin DALLAS, TEXAS.	File No. El Salvadoran Terrorism	Bufile No.	Date Prepare 2-2-19

EL SALVADOR'S TERRORISM
FBI DALLAS
BY: Franco

FBI/DOJ

(7)

CENTER FOR CONSTITUTIONAL RIGHTS,
New York, NY, April 1, 1987.

Re Webster Confirmation Hearings.

JOHN ELLIFF,
U.S. Senate, Select Committee on Intelligence, Washington, DC.

DEAR MR. ELLIFF: Enclosed please find a summary of our testimony before the House Committee on the Judiciary, Subcommittee on Civil and Constitutional Rights, concerning a suspicious pattern of burglaries and government intelligence gathering directed at groups and individuals dissenting from administration Central American policies. Also enclosed is a short piece we did specifically questioning Webster's role in these activities.

We would very much appreciate your distribution of this material to committee members and its inclusion in the record of the William Webster confirmation hearings.

Very truly yours,

MARGARET RATNER,
Education Director.
MICHAEL RATNER,
Legal Director.

Enclosure.

CONFIRMING A GOVERNMENT UNDER LAW

The rush to lend bi-partisan support to the nomination of William Webster as the new head of the CIA must not prevent serious pre-confirmation investigations into the record of FBI abuses which have occurred during Mr. Webster's tenure, and also into the relationship between the FBI and the National Security Council during Oliver North's tenure on the NSC staff.

Only two weeks ago, Congressman Don Edwards' Subcommittee on Civil and Constitutional Rights held hearings on the subject of FBI surveillance of groups opposed to the administration's Central America policies. The hearings showed that the FBI is currently engaged in a massive spying operation directed against such groups.

For example, documents received under the Freedom of Information Act indicate that 24 FBI field offices spent over five years in a deep, intrusive investigation of the Committee In Solidarity With The People Of El Salvador (CISPES). This investigation was initiated without a scintilla of evidence that CISPES was engaged in any criminal conduct. Moreover, the six years of spying failed to turn up any criminal activity. Today, as in the time of Hoover, disagreeing with administration policies may be sufficient to trigger government surveillance.

FBI files are also maintained on other major groups opposing administration policies in Central America. Intrusive techniques, discredited in the Nixon years, are freely employed by FBI agents. Informants are paid to join organizations, and according to one ex-FBI employee, warrantless burglaries, entrapment, and efforts to destroy dissenting groups were not only contemplated, but encouraged.

Moreover, Congressman Edwards suspects that some of the FBI investigations may have been instigated by North who, as an NSC staff member, was the head of an inter-agency counter-terrorism group that included representatives from the FBI. It is more than likely that North directed aspects of FBI intelligence gathering. Executive Order 12333 on foreign intelligence designates the NSC "as the highest Executive Branch entity that provides review of, guidance of, and direction to the conduct of national foreign intelligence, counter-intelligence, and special activities, and attendant policies and programs."

These revelations are unsettling to those who care about protecting dissent in America. They raise serious questions about FBI activity that must be answered before Mr. Webster can be confirmed.

In the 60s and 70s there was much talk about ending FBI spying on groups engaged in lawful dissent, and after revelations of the widespread spying against the anti-war movement, domestic national security investigations were sharply limited. Today, however, FBI documents show that similar investigation of similar opposition groups are carried out under a new, and as yet unfettered, denomination known as "foreign counter-intelligence." This new category of investigation circumvents the limitations placed on domestic spying—the targets and the techniques, however, remain the same.

In addition to investigations of organizations, individuals who travel to Nicaragua, visit "unfriendly" embassies or even attend anti-contra meetings, receive visits from the FBI. Travelers, moreover, are often subjected to harassment at Customs by both

FBI and Customs officials. Address books and other private material are seized. To date, the FBI has refused to stop the practice of retaining such materials in its files. In April 1985, Mr. Webster defended the practice of interviewing travelers, and revealed for the first time that many of the interviews were the result of "specific taskings" from the National Security Council.

Mr. Webster denies that the FBI has had anything to do with the 58 documented burglaries directed against groups involved in dissent on Central America which were also the subject of the House subcommittee hearings. The evidence is substantial, however, that these burglaries are politically motivated and that mailing lists and private papers were the objects sought. Whether the FBI is involved or not, it has the legal authority and the obligation to investigate. Mr. Webster has refused to do so, except in the most cursory fashion.

Spying on groups opposed to the administration's Central America policies is just one aspect of the FBI's broad intelligence gathering activities. However, these investigations demonstrate that some hard questions ought to be asked of Mr. Webster. We ought to find out what domestic intelligence "taskings" were carried out by the FBI under the direction of North, and what broader relationship, if any, the FBI had to North's lawlessness? Does Webster believe that the Constitution does not apply to certain types of investigations, or that incantations of the words "terrorism" or "foreign intelligence" override treasured rights? According to President Reagan, Mr. Webster "understands the meaning of the 'rule of law,'" but we don't know what Mr. Webster's view of the law is. We do know that under Webster, the FBI operated under an executive order that suspended the warrant requirement for foreign intelligence investigations. There are many that think that such an executive order, and activities pursuant to it, run afoul of the Bill of Rights.

SUMMARY OF TESTIMONY OF THE CENTER FOR CONSTITUTIONAL RIGHTS

Evidence collected by the Center For Constitutional Rights establishes that over the last six years the FBI has engaged in massive surveillance of organizations and persons opposed to administration policies in Central America. Files have been maintained on scores, if not hundreds, of such groups. There are 17 volumes of FBI files on the Committee In Solidarity with the People of El Salvador (CISPES) alone. One FBI document in our possession shows that FBI offices in 23 different cities were conducting surveillance of CISPES. Each of these offices has its own CISPES files.

Another document shows how the CISPES investigation was used to provide a window to spy on other groups, such as the Network in Solidarity with the Guatemalan People (NISGUA), the National Network in Solidarity with the Nicaraguan People (NNSNP), the Central American Mobilization Coalition (CAMC) (Pittsburgh), the Thomas Merton Center (Pittsburgh) and the New England Central American Network (NECAN) (Boston).

All of the extremely intrustive spying techniques—which we thought had been finally discredited in the wake of the Watergate scandal—continue to be employed against administration opponents, including the use of informers and infiltrators, burglaries, interrogations, disruption, wire-tapping, overreaching border searchers by Customs and the FBI, IRS audits, and mail surveillance.

These techniques are utilized against groups and individuals who are not even suspected of crimes. In the five-year investigation of CISPES, not a scintilla of evidence was developed to link the organization with criminal activity. CISPES was simply treated as an "enemy" because of its opposition to U.S. intervention in Central America.

We believe that the FBI is functioning as a "thought police." The massive program of spying on dissenters, however, comes as no surprise to observers of President Reagan. This administration took office on a platform that promised increased emphasis on intelligence activities. It should be remebered that one of Reagan's earliest acts upon taking office was to pardon two ex-FBI agents who were convicted of authorizing illegal burglaries. A Heritage Foundation report, requested by the administration, recommended a harder line against domestic opposition groups, and asserted that the FBI should be permitted to conduct break-ins without warrants. In 1981 President Reagan issued a new executive order governing the intelligence agencies which authorized surveillance of Americans who are neither suspected of a crime nor of being foreign agents. The order specifically gives the FBI broad authority to engage in warrantless burglaries against Americans and allows the placement of undercover agents in domestic groups.

It is against this background that the pattern of break-ins must be evaluated. [See attached lists.] Our office has documented 58 burglaries directed against individuals and organizations which oppose administration Central American policies. All involve a similar *modus operandi:* nothing of value is taken, although items of value are readily available; the intruders are familiar with the victims' schedules, and the locations of offices and files; the files that apparently attract attention contain membership lists, donor lists, lists of refugees given sanctuary, etc.; and files are obviously rifled and left strewn about. In only one incident was a perpetrator arrested and convicted.

Frank Varelli, an ex-FBI operative, states that the FBI engaged in burglaries against Dallas CISPES, giving further confirmation to our view that the government may be responsible for some or all of these burglaries. Other factors create a strong presumption that these burglaries are not carried out by ordinary criminals: there is no pecuniary motive; they are geographically widespread and follow a definite pattern; and the targets are a specific category of groups and individuals. Moreover, the FBI claims it has the legal authority to commit burglaries and, coincidentally, it is investigating many of the groups which have been burglarized.

We recommend that the gathering of intelligence about groups and individuals opposed to adminisrtration Central America policies be stopped: FBI visits should be authorized only when linked to criminal activities; Customs and the FBI should be prohibited from using the border search exemption to the Fourth Amendment to gather intelligence; the IRS and the Postal Service must not be allowed to harass and gather intelligence about administration "enemies;" infiltration of domestic groups involved in lawful political activity should not be permitted; unconsented physical searches must be linked to criminal investigations and should not be permitted without a warrant issued by a neutral magistrate on a finding of probable cause.

We also recommend congressional investigations and the possible appointment of a special prosecutor to look into: the infiltration of CISPES; the intelligence activities being conducted under E.O. 12333, including the possible misused of the counterintelligence classification to avoild legal constraints and congressional oversight; and the burglaries directed at groups opposed to administration policies.

ORGANIZATIONS BURGLARIZED

Amnesty International	Los Angeles, CA.
Arlington Street Church	Boston, MA.
Casa de la Esperanza	Washington, DC.
Casa del Pueblo	Washington, DC.
Central American Information Office	Cambridge, MA.
Central American Solidarity Assoc	Cambridge, MA.
Centro Presente	Cambridge, MA.
Comite de Refugiados Salvadorenos	Washington, DC.
Comite El Salvador	Washington, DC.
CISPES	Dallas, TX.
CISPES	Washington, DC.
Educators in Support of ANDES (CAPA)	Cambridge, MA.
First Congregation Church	Cambridge, MA.
Guatemala News and Education Service	Oakland, CA.
Home for Peace and Justice	Saginaw, MI.
International Center for Development Policy	Washington, DC.
New England Central America Network	Cambridge, MA.
New Institute of Central America	Cambridge, MA.
North America Congress on Latin America	New York, NY.
Old Cambridge Baptist Church	Cambridge, MA.
Pico Rivera Methodist Church	Pico Rivers, CA.
Reformed Christian Church	Washington, DC.
Riverside Church	New York, NY.
Sojourners	Washington, DC.
St. Edmunds Episcopal Church	Pacifica, CA.
St. Stephens Presbyterian Church	Chatsworth, CA.
St. Williams Catholic Church	Louisville, KY.
The Church of the Covenant	Boston, MA.
Trinity Methodist Church	Berkeley, CA.
United Church of Santa Fe	Santa Fe, NM.
United Methodist Church-Calvary	Washington, DC.
University Christian Movement	Cambridge, MA.
University Baptist Church	Seattle, WA.
University Lutheran Church	Berkeley, CA.
Wheadon United Church	Evanston, IL.

AFFILIATIONS OF INDIVIDUALS WHOSE DWELLINGS WERE BURGLARIZED

Bainbridge-Nicaragua Association	Kingston, WA.
Casa Nicaraguense	New York, NY.
Central American Refugee Project	Phoenix, AZ.
Central American Solidarity Committee	Lake Orion, MI.
CISPES	Washington, DC.
CISPES	New York, NY.
Homes for Peace and Justice	Saginaw, MI.
New Institute of Central America	Dorchester, MA.
Nicaragua Solidarity Network	Washington, DC.
Sacred Heart Church	Nogales, TX.
United Methodist Church-U.N. Office	New York, NY.
Witness for Peace	New York, NY.

STATEMENT OF ESTHER HERST, LEGISLATIVE ADVISOR, NATIONAL COMMITTEE AGAINST REPRESSIVE LEGISLATION

Thank you for the opportunity to present this statement regarding the nomination of William Webster to be Director of Central Intelligence. The National Committee Against Repressive Legislation is a civil liberties organization founded in 1960 as the National Committee to Abolish the House Committee on UnAmerican Activities. In 1970, recognizing the changing threats to First Amendment rights, we became the National Committee Against Repressive Legislation. Throughout our history, we have worked to protect constitutional rights of political association and expression from legislative or other governmental restrictions.

Through a Freedom of Information Act request filed in 1975, we learned that NCARL was the subject of a massive FBI "neutralization" campaign launched even before our official founding and lasting through the 1960s. The full range of "dirty tricks" were used against us—poison pen letters, break-ins, wiretaps, infiltrators, and disruption of public meetings. Thanks to the work of the Church Committee, we know that NCARL was only one of scores of organizations, engaged in absolutely lawful, constitutionally protected political activities, which were targeted for harassment and destruction by the FBI.

In response to the Church Committee's recommendations, then Attorney General Edward Levi promulgated guidelines to control the domestic security investigative activities of the FBI. These guidelines required, for the first time, a clear nexus between imminent criminal conduct and FBI investigations. Political spying decreased markedly and the FBI became subject to meaningful executive and legislative oversight.

The role of Judge Webster as Director of the FBI was positive. As a man firmly committed to the rule of law and conscious of the need to rebuild the FBI as an effective non-political enforcement agency, he played a critical role in halting the worst examples of the Hoover-era abuses of constitutional rights. In recent years however, he has been under increased pressure to ease those controls and he has bowed to those pressures in ways which cause NCARL serious concern.

The most drastic change in policy has been the revision of the Levi guidelines by Attorney General William French Smith. The Smith guidelines significantly alter the criminal standard and allow increased use of intrusive surveillance techniques. The guidelines permit "preliminary inquires" into the activities of individuals or organizations, including physical surveillance, collection of newspaper clippings and other publicly available documents, and recruitment and placement of informants and infiltrators, where there is merly an allegation of possible future criminal activity. A fuller investigation, including mail openings and phone taps in addition to undercover operations, may be initiated whenever there is "reasonable indication" that persons are "engaged in an enterprise for the purpose of furthering political or social goals wholly or in part" through criminal conduct. As the guidelines themselves concede, this "reasonable indication" standard is substantially lower than "probable cause" to believe a crime is about to be committed, the standard set for searches and arrests under the Fourth Amendment to the Constitution. This week standard is particularly troubling because federal statutes punishing speech such as the Smith Act, though substantially repudiated by the Supreme Court, have not been repealed by Congress, and hence serve as a convenient springboard for FBI investigations.

The guidelines provide that investigations are permissible when an individual has merely advocated criminal activity.There need not be an imminent likelihood of criminal conduct occurring, even though such an immediate danger is necessary before speech can constitutionally be labeled a crime. Once an organization is under investigation based on the speech of one of its members, the guidelines allow the FBI to collect information about all members who participate in its demonstrations, about the structure of the organization as well as the relationship of the members, and even about other organizations that cooperate with it. Even after an organization has become inactive or no longer presents an "immediate threat of harm," the FBI may continue surveillance and infiltration.

Separate, secret guidelines set forth standards for FBI foreign counterintelligence investigations. Such standards have several extraordinary features: the standard for initiating an investigation is itself classified; warrantless physical searches are permitted; a secret court considers all electronic surveillance requests; special exemptions exist protecting records from disclosure under the FOIA; special access is available to telephone toll records and financial records. The focus of these investigations is the collection of intelligence and not necessarily the prosecution of crimes. Yet the definition of foreign intelligence agent is so broad that it can include peaceful domestic groups.

The practical effect of these new guidelines, including the classified foreign counterintelligence guidelines, has been renewed attacks on political advocacy of controversial positions. FBI agents have interviewed American citizens upon their return from visits to Nicaragua and El Salvador. Agents have questioned the employers and landlords of such citizens. The FBI has continued to build files on leading political dissenters, such as Milwaukee Auxiliary Bishop Thomas Gumbleton and Seattle Archbishop Raymond Hunthausen. An FBI agent even questioned an aide to Colorado Representative Patricia Schroeder regarding attendees at a church service held in solidarity with Central American refugees. Most recently, the FBI turned over to the INS results of an investigation into First Amendment protected activities of Palestinian activists in Los Angeles, leading to attempts to deport those individuals.

Perhaps most ominous is recent testimony before the House Judiciary Subcommittee on Civil and Constitutional Rights which revealed a major FBI "neutralization" effort against CISPES. Former FBI informant Frank Varelli claimed that he and other agents infiltrated, burlarized, and tried to influence the activities of Texas-based organizations working in opposition to U.S. policies in El Salvador. This testimony gives support to the suspicions of many political activists that the rash of over 50 break-ins into organizations involved in Central America solidarity sanctuary work was masterminded by the FBI.

These actions show an alarming disregard for the constitutional protections of political association and expression and for the rule of law under which the FBI must operate in a democratic society. Clearly, Judge Webster must be held accountable for current abuses of rights by the FBI. It is the responsibility of this Committee to question him and others in order to ascertain the full truth of FBI excesses. Although the House Judiciary Subcommittee on Civil and Constitutional Rights is investigating under its oversight authority, the Senate Select Committee should supplement the House investigation to determine if Judge Webster remains sensitive enough to constitutional limitations on governmental powers to be entrusted with the directorship of yet another secret agency.

NCARL is equally concerned that this Committee see these hearings as an opportunity to bring the CIA under meaningful Congressional controls. Clearly, the CIA has been operating as a "rogue elephant," to see a characterization common to the Church Committee era. The Administration has abetted the CIA's tendencies to work in secret and without lawful authority by seeking ways to circumvent congressional restrictions on military spending and on covert operations. Now is the time for Congress to halt this trend towards unfettered intelligence agency misdeeds.

Plainly, these activities present a serious challenge to American democracy. The philosophy, tactics, and powers of the intelligence agencies as they operated prior to 1976 and, apparently, during the past three or four years point clearly in the direction of a police state. The curbs on these practices which were put into effect after the Church Committee and other revelations have not been adequate to control the agency permanently. The appointment of a new Director or Central Intelligence offers to Congress a valuable opportunity to reexamine current "controls" and to add more meaningful restrictions to prevent future abuses.

The most important control would be a statutory definition of the role and purpose of the CIA. Such a "charter" has proven impossible to pass in previous Congresses and NCARL is under no illusions about the potential for approval at this time. Still, this Committee can begin a charter process incrementally.

1. *Prohibit-covert operations.*—The proper function of the intelligence agencies is to collect information, analyze it, and disseminate it to those who need it. When in-

telligence agencies go beyond this, they are inevitably operating outside the rule of law. CIA covert operations are designed to harass and destroy, through illegal methods that do not stop short of violence, individuals, groups, and even governments perceived as political opponents. The CIA's covert actions have included bribery, obtaining publication of false information, training paramilitary groups, attempted assassination, encouraging terrorism, and organizing plots to overthrow governments. These operations not only violate international law, they have serious domestic consequences including the spreading of false information and the corruption of academic, religious, and journalistic institutions.

Under no circumstances do these practices have a place in a civilized community. If allowed to carry on such activities, intelligence agencies become a state within a state, totally beyond public control. Nothing could be more dangerous for a democratic society or for the development of international law.

The fact that these activities have continued and have affected domestic political opinion, despite Congressional bans on specific covert actions and requirements of "timely" notice to Congressional committees, is an indication that those very meager limitations are inadequate. Only a clear prohibition on such actions will root out practices that are so destructive to the democratic process.

2. *Collection of foreign intelligence within the U.S. and with respect to U.S. citizens abroad should be subject to the same safeguards as collection of domestic intelligence.*—The government has frequently contended that in the area of foreign intelligence the inherent powers of the executive branch are greater, the constitutional limitations are lesser, and the legislative restrictions required are fewer. This distinction is unsound and the conclusions drawn from it are dangerous. The position is based on the assumption that in the area of foreign intelligence the rights of Americans are less involved than in the area of domestic intelligence. With the exception of operations conducted abroad not related to American citizens, this assumption is unfounded. The fact that the classified foreign counterintelligence guidelines have been the basis for ongoing FBI (and perhaps CIA) investigations of American citizens engaged in lawful political dissent illustrates why it should not be permissible to make different rules for the conduct of foreign and domestic intelligence. Except for activities in foreign countries which do not affect American citizens, the standards of protection for Americans, not foreigners, should govern.

3. *Adequate controls to enforce legislation governing the intelligence agencies requires measures for accountability, internal oversight, and external oversight.*—Accountability requires a system of record-keeping and reporting. Significant decisions, such as the decision to initiate an investigation, should be recorded in writing, with the facts and reasons given, by the official responsible. Ad-hoc and periodic reports should be required. The objective is to create a "paper trail" by which individual responsibility can be assigned and the basis for review made available. Internal oversight should extend beyond ordinary methods of supervision by superior officials in the line of authority. The best method of securing an independent check of performance is probably an inspector-general system. In addition, departmental heads, or similar officials, should exercise oversight through control of the budget and other devices. Some method of oversight by persons totally outside the agencies is essential. While legislative committees have not been very effective in the past, it may be possible to improve their performance. A board of overseers composed of prominent persons outside the government, if given adequate staff, could perform an adequate oversight function. The General Accounting Office, which is independent of the executive branch and possesses a staff trained in investigating the government bureaucracy, might be most effective. Any such oversight agency should, of course, have full access to all agency operations and complete power to investigate complaints or institute an inquiry on its own.

This machinery for securing compliance with legislative restrictions can operate successfully only in a context marked by maximum possible openness, including publication of budgets, protection for "whistleblowers," encouragement of investigative reporting, and public concern to know what is going on.

In conclusion, we urge this Committee to use these recommendations as the basis for questions to Judge Webster in order to learn his views of covert operations, the relationship between foreign counterintelligence and the rights of American citizens, and appropriate mechanisms for effective oversight and accountability. If his answers do not reflect adequate understanding of the problems and a sensitivity to the demands for political freedom within our democratic society, we urge the Committee to disapprove this nomination.

These recommendations should also become the foundation for legislation, drafted and ultimately enacted through this Committee. History has shown that only when there is public attention focused on the misdeeds of intelligence agencies is it possible to legislate even cautious limitations. In light of the current Iran-Contra affair and the renewed press, public, and Congressional interest in the workings of the intelligence community, now is the best possible time to enact positive reforms and meaningful controls.

NCARL hopes that you will take advantage of the opportunities before you. We will continue to offer advice and assistance in the passage of legislation to finally bring the U.S. intelligence community under the rule of law.

STATEMENT OF DR. JAMES J. ZOGBY, EXECUTIVE DIRECTOR, ARAB AMERICAN INSTITUTE

The nomination of William Webster as Director of the Central Intelligence Agency is of great concern to Arabs and Arab Americans.

From the earliest period of his tenure as Director of the Federal Bureau of Investigation, he has shown little regard for Arab American rights or sensitivities.

The ABSCAM affair, for example, was a great insult to Arabs. However, this fact was lost on Mr. Webster despite our frequent protests and personal meetings with him. In addition, he remains unapologetic for the FBI's unconscienable use of an "Arab" to bait politicians into crime.

Mr. Webster has displayed a cavalier attitude to civil rights as evidenced by the FBI's repeated assaults on the rights of Arab and Arab American political activists during the past nine years. In 1982 I met with senior officials of the FBI and presented them with affidavits from 90 Arab and Arab American political activists in southern California. They complained of FBI harassment, including late night visitations and interrogations as to their political involvement and activities.

At the same time I presented to these officials over 12 complaints from California Arab Americans of instances of physical violence or threats of violence against them. Today, eighteen months after the murder of Alex Odeh, southern California Arab American and political leader, the case remains unsolved. And, while little or no progress has been made in the Odeh case, we now learn that the FBI has, for the last year, been conducting an "intensive investigation" into the political activity of Palestinians in southern California.

The question I asked of Mr. Webster's FBI then, I ask now: why so much emphasis on the infringement of the political rights of Arabs and Arab Americans, and so little emphasis on protecting their rights?

As CIA Director, Mr. Webster will have greater resources, be further removed from public scrutiny, and oversee a world-wide operation with direct or indirect contact with 21 Arab nations.

Contrary to what President Reagan has asserted in recent press statements, the United States' standing in the Arab world is at an all time low. Following the signing of the U.S.-Israel Strategic Accord, intelligence agencies of a number of friendly Arab governments, decided to limit contact with the U.S. for fear of security breaches.

U.S. behavior during and after Israel's 1982 invasion and occupation of Lebanon, coupled with recent revelations of the Pollard spy case and the U.S.-Israel-Iran scandal all have done little to alleviate Arab fears and growing distrust of the ability of the U.S. to work with them as a trusted friend and ally.

All this should be of great concern to our government since, while we have extensive interests in the Middle East, we are increasingly becoming more isolated in the region. As both the 1982 Lebanon War and the U.S.-Israel-Iran scandal show, our penchant for relying on Israeli intelligence and our attachment to Israeli interests in the Middle Easts are dangerous both to the peace and stability of the region and to our own national security interests as well.

It is in this context that I feel we should judge the nomination of William Webster. I know from government and leading non-government sources that our friends in the Arab world have been deeply disturbed by Mr. Webster's behavior in both the ABSCAM episode and in the instances of harassment of Arab American political activists.

In a period when we desperately need to mend our badly damaged image and relations with the Arab states, I am not certain that an uncritical acceptance of Mr. Webster's nomination is the correct signal we ought to send to our friends in that region.

Chairman BOREN. Also, I would like to enter at this point into the record for consideration by the Committee, the background and financial disclosure statement filed by Judge Webster with the committee, pursuant to committee rule 5.6. And I would also mention that the committee has taken action to authorize the Chairman to release unclassified excerpts of the testimony of Attorney General Meese before the Select Committee on Intelligence during the preliminary inquiry into the sale of arms to Iran and possible diversion of funds to the Nicaraguan resistance. And without objection, this testimony by Attorney General Meese before the committee will be entered into the record at this point.

[The document referred to follows:]

IN RESPONSE TO QUESTIONS #28 and #34

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Financial Disclosure Report

Form Approved
OMB No. [illegible]

Page 1

Reporting Status *(Check Appropriate Box)*: ☐ Incumbent ☒ New Entrant, Nominee, or Candidate ☐ Termination Filer

Agency Use Only:

OGE Use Only:

Date of Appointment, Candidacy, Election or Nomination *(Mo., Day, Yr.)*: Announced March 3, 1987

Termination Date *(If Applicable)* *(Month, Day, Year)*:

Reporting Individual's Name
Last Name: Webster
First Name and Middle Initial: William H.

Position for Which Filing
Title of Position: Director
Department or Agency *(If Applicable)*: Central Intelligence Agency

Location of Present Office
Address *(Number, Street, City, State and ZIP Code)*: J. Edgar Hoover FBI Bldg., Washington, D.C.
Telephone No. *(Include Area Code)*: 202-324-3444

Position(s) Held With the Federal Government During the Preceding 12 Months *(If Not Same as Above)*
Title of Position(s) and Date(s) Held: Director, FBI, 2/23/78 to date

Presidential Nominees Subject to Senate Confirmation
Name of Congressional Committee Considering Nomination: Senate Select Committee on Intelligence
Do You Intend to Create a Qualified Diversified Trust? ☐ Yes ☒ No Under consideration

Certification
I CERTIFY that the statements I have made on this form and all attached schedules are true, complete and correct to the best of my knowledge and belief.
Signature of Reporting Individual: William H. Webster
Date *(Month, Day, Year)*: 3-26-87

Other Review **(If desired by agency)**
Signature of Other Reviewer:
Date *(Month, Day, Year)*:

Agency Ethics Official's Opinion
The information contained in this report discloses no conflict of interest under applicable laws and regulations.
Signature of Designated Agency Ethics Official/Reviewing Official:
Date *(Month, Day, Year)*:

Office of Government Ethics Use Only
Signature:
Date *(Month, Day, Year)*:

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for Income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part I** (Liabilities)—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.
- **Schedule C, Part II** (Agreements and Arrangements)—Show any agreements or arrangements as of the date of filing.
- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

Comments of Reviewing Officials *(If additional space is required, use the reverse side of this sheet)*

(Check box if comments are continued on the reverse side) ☐

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278-109

NSN 7540-01-070-8444

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name		Page Number		Schedule
William H. Webster	Assets and Income		2	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

S or DC	BLOCK A Assets & Income Sources Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	BLOCK B Valuation of Assets Category of Value (X) None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	BLOCK C Income Type of Income (X) Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	Category of Amount of Income (X) None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	BLOCK D Transactions Test If yes, complete Schd. B Part I for those assets including those sold for a loss. YES	NO
Examples	X Y Z Common				x				x									x								x	
	Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
1	Chemtech Industries				X				X								X										X
2	D.O.V.E. Equipment		X						X							X											X
3	Gould		X						X							X											X
4	Quick Point Pencil Co.		X						X								X										X
5	FMC Corp. (New)			X					X							X										X	
6	AT&T		X						X								X										X
7	American Information Tech.Corp.								X			X					X	X								X	
8	Burlington No.								X			X						X			X					X	
9	Bell Atlantic		X						X								X										X
10	Eaton								X			X						X			X					X	

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FPM Chapter 734
U.S. Office of Personnel Management

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OMB No. [illegible]

Reporting Individual's Name				
William H. Webster	**Assets and Income**	Page Number	3	Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically appfoved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

	BLOCK A Assets & Income Sources	**BLOCK B** Valuation of Assets							**BLOCK C** Income																	**BLOCK D** Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)										If yes, complete Schd. B Part I for those assets including those sold for a loss	
S or DC		None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	YES	NO
Examples	X Y Z Common				x				x									x								x	
	Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
1	Edison Bros.						X		X											X							X
2	Exxon						X		X										X								X
3	Fluor		X						X							X											X
4	Handyman Corp.								X			X					X				X					X	
5	Mobil Corp.				X				X								X										X
6	NYNEX Corp.								X			X					X	X								X	
7	Pacific Gas & Electric			X					X								X										X
8	Pacific Telesis Group				X				X									X								X	
9	Manpower Inc. (formerly Parker Pen)					X			X							X											X
10	Southwestern Bell Corp.			X					X								X									X	

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FPM Chapter 734
U.S. Office of Personnel Management

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OMB No. [illegible]

Reporting Individual's Name		Page Number	Schedule
William H. Webster	**Assets and Income**	4	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000? ▼

	BLOCK A Assets & Income Sources	BLOCK B Valuation of Assets							BLOCK C Income																	BLOCK D Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)							Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
S or DC		None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
Examples	X Y Z Common				x				x									x								x	
	Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
1	U.S. West,Inc.		X						X			X					X	X								X	
2	Metropolitan Fed. S&L		X								X					X											X
3	Boatmen's National Bank(3)				X						X							X									X
4	265 Acre farm-Williamsburg,Mo.						X								Farming									$12,300			X
5	American Security Bank				X						X								X								X
6	Calloway Bank			X							X						X										X
7	ASB Money Market Fund						X				X									X							X
8	Proctor & Gamble					X			X								X										X
9	American Brands				X				X								X									X	
10	Xerox				X				X								X										X

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Reporting Individual's Name	Assets and Income	Page Number	5	Schedule A
William H. Webster				

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

All Filers: In BLOCK B report the value of each asset listed in BLOCK A which had a fair market value exceeding $1000 at the close of the reporting period.

All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the actual amount of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000? ▼

S or DC	BLOCK A Assets & Income Sources Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	BLOCK B Valuation of Assets Category of Value (X) None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	BLOCK C Income Type of Income (X) Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust	Other (Specify Type)	Category of Amount of Income (X) None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000	Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	BLOCK D Transactions Test If yes, complete Schd. B Part I for those assets including those sold for a loss. YES	NO
Examples	X Y Z Common				x				x									x								x	
	Doe Jones & Smith, Hometown, USA			x											ptnrshp income									$50,000			
1	American Home Products				X				X								X										X
2	Missouri Lincoln Trust Company		X						X								X										X
3	Colgate Palmolive				X				X								X									X	
4	Delta Air Lines				X				X								X									X	
5	Times Mirror				X				X								X									X	
6	Digital Equip. Corp.					X																				X	
7	BNB Institutional Liquid Assets							X			X									X							X
8	Mercantile Bancorp, Inc.			X					X								X										X
9	Continental Corp.					X			X									X									X
10	General Motors				X				X			X					X	X								X	

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U.S. Office of Personnel Management

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Reporting Individual's Name		Page Number		Schedule
William H. Webster	**Assets and Income**		6	A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

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All Filers: In BLOCK C report the type and amount of income exceeding $100 or more received from the assets and other sources of income listed in BLOCK A. You must report the **actual amount** of any income not of a type specifically noted below. You need not report the actual amount of your spouse's earned income, only the source in BLOCK A. You may not check "qualified trust" unless you have a blind trust which has been specifically approved by the Office of Government Ethics. If you, your spouse or dependent child are the beneficiary of a trust which no one of you created and has no knowledge of the assets, refer to the instructions to see if it qualifies as an "excepted trust." If "none" (or less than $101) is checked under Category of Amount of Income, no other entries need be made in BLOCK C for that item.

Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

BLOCK A Assets & Income Sources		BLOCK B Valuation of Assets							BLOCK C Income																	BLOCK D Transactions Test	
Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐		Category of Value (X)							Type of Income (X)							Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
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Examples	X Y Z Common				X				X									X								X	
	Doe Jones & Smith, Hometown, USA			X											ptnrshp income									$50,000			
1	Dow Chemical				X				X								X										X
2	Monsanto								X			X					X			X						X	
3	General Electric						X		X								X										X
4	Caterpillar Tractor								X			X				X	X									X	
5	Cyprus Minerals											X					X									X	
6	Amoco Corp.								X			X						X		X						X	
7	Avon Products			X					X								X										X
8	F.W. Woolworth								X			X					X		X							X	
9	California 5.5 Bonds (Due 8/1/87)				X						X							X									X
10	American Security Bank (IRA)			X							X						X										X

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SF 278 (Rev. [illegible])
FPM Chapter 734
U.S. Office of Personnel Management

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Reporting Individual's Name William H. Webster	**Assets and Income**	Page Number 7	Schedule A

All Filers: In BLOCK A report (a) the identity of each asset held for the production of income at the close of the reporting period which had a fair market value exceeding $1000 and (b) any other asset or source of income which generated over $100 in income during the reporting period. This includes but is not limited to employers, stocks, bonds, tax shelters, bank accounts, real property, mutual funds, pensions, IRA assets, assets of certain trusts, commodities futures, personal businesses and partnership interests. Exclude your personal residence unless you rent it out. See instructions for rules on bank accounts and complex holdings.

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Incumbents and Termination Filers only: In BLOCK D, for any real property, stocks, bonds, commodities futures and other securities listed in BLOCK A, did you purchase, sell, or exchange the item during the reporting period for a value that exceeds $1000?

▼

	BLOCK A Assets & Income Sources	**BLOCK B** Valuation of Assets							**BLOCK C** Income																	**BLOCK D** Transactions Test	
	Identify each asset and income source of yours, your spouse(S) and your dependent child (DC). NONE ☐	Category of Value (X)							Type of Income (X)						Other (Specify Type)	Category of Amount of Income (X)								Actual Amount Only if "Other" Specified	Date (Mo., Day, Yr.) Only if Honoraria	If yes, complete Schd. B Part I for those assets including those sold for a loss.	
S or DC		None (or less than $1001)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Trust		None (or less than $101)	$101-$1,000	$1,001-$2,500	$2,501-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	Over $100,000			YES	NO
Examples	X Y Z Common				X				X									X								X	
	Doe Jones & Smith, Hometown, USA			X											ptnrshp income									$50,000			
1	Wells Fargo Bank (formerly Crocker National Bank)																										
2	(Acct. #10-10-500-7735103) U/A Daniel P. Lane for																										
3	William H. Webster consisting of Bonds (P), Common trust																										
4	income; reserve income D; stocks							X	X		X									X							X
5	Assets listed in 1984 Disclosure Act Statement as property of																										
6	spouse were under probate administration of Estate of Drusilla L. Webster until approximately June, 1986. The																										
7	fiduciary income tax return filed for the estate reflects dividend interest and royalty income in the																										
8	following bracket:							X	X		X									X							X
9																											
10																											

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FPM Chapter 734
U.S. Office of Personnel Management

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OMB No. 3206-0092

Reporting Individual's Name
William H. Webster

Page Number	8	Schedule B	

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC	Identification of Assets	Type of Transaction (X) Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (X) $1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
Example	X Y Z Common	x			2/1/83			x			
1	NYNEX Corp		X		12/30/86	X					
2	462 Shares Pacific Telesis Group	X			1/8/87			X			
3	81 shares SW Bell	X			1/8/87		X				
4	U.S. West, Inc.		X		12/30/86	X					
5	F.W. Woolworth		X		12/30/86	X					
6	General Motors		X		12/30/86	X					

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S	Source (*Name and Address*)	Brief Description	Value
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1	Society for the Four Arts, Palm Beach, Florida	The Society made a contribution of $4,000 to St.Louis Junior League to be used in connection with the Drue Webster Service Award	$4,000
2		following my appearance before this group. I had previously declined any honorarium but apparently they determined my interest	
3		in this association through a contact with a member of my staff.	
4	Committee of One Hundred Tulsa, Oklahoma	Following a speech, the organization made an unsolicited contribution to Washington University as a gesture honoring	$500
5		my appearance. I had no conversation with them prior to their providing the contribution and they made this decision on their own.	
6			

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FPM Chapter 734
U.S. Office of Personnel Management

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OMB No. 3206-0052

Page Number	9		Schedule	B

Reporting Individual's Name

William H. Webster

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC	Identification of Assets	Type of Transaction (X): Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	Amount of Transaction (X): $1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
Example	X Y Z Common	x			2/1/83			x			
1	150 shares FMC Corp. Com. pfd. exchanged for 187 FMC common			X	5/23/86		X				
2	187 shares FMC Corp. com. exchanged for 187 FMC Corp. Com. New			X	6/30/86	X					
3	American Information Tech. Corp.		X		12/30/86	X					
4	Burlington No.		X		12/30/86				X		
5	Eaton		X		12/30/86				X		
6	Handyman Liquidation		X		12/26/86				X		

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S	Source (Name and Address)	Brief Description	Value
Examples	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
	Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1	Community Foundation of Greater Washington, Inc.	Participated in tennis tournament at White House to benefit Nancy Reagan Drug Abuse Fund. Rec'd tennis racquet & tennis clothing as player.	Approx. $22
2	3221 M Street, N.W., WDC		
3	University of Virginia	$3,000 Thomas Jefferson Award distributed equally to Washington University, Junior League of St. Louis, and University of Virginia Law School	$3,000
4	Charlottesville, Virginia		
5			
6			

PREVIOUS EDITION USABLE

SF 278 (Rev 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3206-0092

Reporting Individual's Name

William H. Webster

Page Number	9a	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC		Identification of Assets	Type of Transaction (X)				Amount of Transaction (X)					
			Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Example:	X Y Z Common	X			2/1/83			X			
1		American Brands	X			1/8/87			X			
2		Cyprus Minerals		X		12/29/86	X					
3		General Electric (additional shares added)	X			1/8/87			X			
4		Colgate Palmolive	X			1/8/87			X			
5		Delta Air Lines	X			1/8/87			X			
6		Times Mirror	X			1/8/87			X			

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only:
Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S		Source (Name and Address)	Brief Description	Value
	Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
		Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1				
2				
3				
4				
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6				

PREVIOUS EDITION USABLE

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Reporting Individual's Name
William H. Webster

Page Number	9b	Schedule B

Part I
Transactions

Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded $1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

NONE ☐

S or DC		Identification of Assets	Type of Transaction (X)				Amount of Transaction (X)					
			Purchase	Sale	Exchange	Date (Mo., Day, Yr.)	$1,001-$5,000	$5,001-$15,000	$15,001-$50,000	$50,001-$100,000	$100,001-$250,000	Over $250,000
	Example:	X Y Z Common	x			2/1/83			x			
1		Caterpillar	X			1/6/87			X			
2		Digital Equipment Corp.	X			1/8/87				X		
3		Amoco Corp.		X		12/29/86				X		
4		Monsanto		X		12/29/86			X			
5												
6												

Part II
Gifts, Reimbursements and Travel Expenses

Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling $250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling $100 or more in value; and (3) cash reimbursements of $250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given totally independent of their relationship to you. **Exclude** transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), **exclude** gifts from relatives and **exclude** gifts of $35 or less when aggregating them for the total from one source. See instructions for further exclusions.

NONE ☐

S		Source (Name and Address)	Brief Description	Value
	Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83	$500
		Nat'l Assn. of Rock Collectors, NY, NY	Leather briefcase for retiring president	$125
1				
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PREVIOUS EDITION USABLE

278-108

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3206-0062

Reporting Individual's Name: William H. Webster

Page Number: 10 | Schedule C

Part I
Liabilities

All Filers: Report liabilities over $10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. **Exclude** a mortgage on your personal residence unless it is rented out, loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

NONE ☐

S or DC		Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)				
							$10,001 to $15,000	$15,001 to $50,000	$50,001 to $100,000	$100,001 to $250,000	Over $250,000
	Examples	First District Bank, Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware	1981	13%	25 yrs.			X		
		John Jones, 123 J St., Washington, DC	Promissory note	1979	10%	on demand	X				
	1	None									
	2										
	3										
	4										
	5										
	6										

Part II
Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

NONE ☐

	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
Example:	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Hometown, USA	7/75 ptnership agmnt.
	None		

PREVIOUS EDITION USABLE

SF 278 (Rev. 1/85)
FPM Chapter 734
U.S. Office of Personnel Management

Form Approved
OMB No. 3209-0002

Page Number	11	Schedule D

Reporting Individual's Name

William H. Webster

Part I
Positions Held Outside U.S. Government

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. **Exclude** positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE ☐

	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
Examples:	Nat'l Assn. of Rock Collectors, NY, NY	Non profit education	President	6/82	6/83
	Doe Jones & Smith, Hometown, USA	Law firm	Partner	7/76	11/83
	Washington University, St.Louis, Mo.	University	Trustee	1974	Present
	American Law Institute, Philadelphia, Pa.	Law ed. - nonprofit	Council Member	1978	Present
	Institute of Judicial Administration, New York, NY	Law - nonprofit	President	May, 1985	Present
	University of Colorado, School of Law, Boulder, Col.	University	Board of Visitors	May, 1983	Present
	American University, Washington, D.C.	University	National Advisory Bd.	August,1982	Present

Part II
Compensation In Excess Of $5000
Paid by One Source

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than $5,000. You need not report the U.S. Government as a source.

NONE ☐

	Source (Name and Address)	Brief Description of Duties
Examples:	Doe Jones & Smith, Hometown, USA	Legal services
	Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services in connection with university construction
	None	

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EXCERPTS FROM TESTIMONY BY ATTORNEY GENERAL MEESE, DECEMBER 17, 1986

EXCERPT NO. 1

The next that I recall of anything pertaining to the Iranian initiative occurred in the Summer of 1986, when on one occasion someone brought to me—either the FBI or someone in our Criminal Division, or our lawyers in the Department of Justice—brought to me information that persons involved in arms transactions with Iran were being investigated, or information had come to the attention of the law enforcement agencies that there were persons dealing in arms with Iran, and I was asked whether by any chance this could be authorized. I got the information about this particular incident, called John Poindexter, related the facts to him, and was advised by him that there was no such authorization for this activity that had been reported to me.

The next that I remember——

Senator **COHEN**. Was that the so-called sting operation?

Mr. **MEESE**. I think it probably—it may have been, but I am not sure, Senator, because I don't really know all of the details. I only got a very brief scenario, it was at an early stage of the investigation. From then on, the investigation went on without any knowledge on my part.

The next thing that I remember was that in late October, I was called by John Poindexter and told that there was an important element of the Iranian intiative going forward, and that transportation facilities involving Southern Air Transport were needed to participate in that part of the operation, and that there was apparently an invesigation being conducted that would have keep people who were supposed to be involved in that operation from participating in it.

I don't remember the exact conversation, but the impression I have was that the FBI wanted to look at files or other—or interview people, and that if they were—if this investigation was going to go forward at that particular time, these people would be unavailable to participate in whatever transportation activity was involved in Iran, or in relation to Iran.

The **CHAIRMAN**. This was October——

Mr. **MEESE**. This was the latter part of October.

The **CHAIRMAN**. Of 1986?

Mr. **MEESE**. Right. I will connect that up in a moment. I asked the Associate Attorney General who has responsibility for the criminal enforcement activities of the Department to check with the FBI and to see whether there was an investigation, and if it was, whether it could be—whether certain aspects of it could be delayed for a few days without hurting the investigation. I also contacted the Secretary of the Treasury, because it was my understanding from Mr. Poindexter that Customs was also involved in the investigation.

I think I perhaps best serve the Committee's interests by reading from a report, or actually a memorandum from the FBI, which was the memorialization of this contract. It is dated the 31st of October 1986. It is a memorandum to Floyd Clark, who is the Assistant Director of the FBI in charge of the Criminal Division. It is in regard to Southern Air Transport, and it is signed by William H. Webster, the Director of the FBI, and reads as follows: "This confirms my telephone conversation with you late yesterday afternoon." That would have been the 30th of October. "Associate Attorney General Stephen Trott called on the secure line at the request of the Attorney General to ask that we suspend for ten days any non-urgent work in the Southern Air Transport Neutrality Act investigation. Apparently there are some sensitive hostage negotiations now under way that could possibly be prejudiced. He emphasized that the Attorney General did not want to do anything which would wreck the investigation, but simply to permit a good climate for the negotiations to the extent possible. You informed me that we were just at the preliminary stages, and this should present no difficulty. I would like to know if these instructions create problems for us at any time." And if you like, I'll be happy to provide that to the Committee.

The **CHAIRMAN**. Thank you, very much.

Mr. **MEESE**. That happened to coincide, for the benefit of the Committee, with the release of Douglas Jacobsen.

EXCERPT NO. 2

Senator **COHEN**. Now in October '86 when the Sandinistas captured Mr. Hasenfus, I think you indicated that you or the FBI was in the process of conducting an investigation at that time.

Mr. **Meese**. I think actually it was the Hasenfus investigation that the FBI was conducting.

Senator **Cohen**. And when you got the request from—who was it, Mr. North?

Mr. **Meese**. No, Mr. Poindexter.

Senator **Cohen**. Mr. Poindexter——

Mr. **Meese**. Admiral Poindexter.

Senator **Cohen** [continuing]. To ask the FBI to delay at that point so that Southern Air could carry out its mission, did you still tell the FBI to go forward with its full investigation on Hasenfus?

Mr. **Meese**. Oh, yes.

Senator **Cohen**. That wasn't interrupted for any period of time?

Mr. **Meese**. That was very briefly delayed, and I think it was only those aspects of the investigation that had to do with the headquarters of Southern Air Transport, but I know that the investigation was resumed immediately thereafter.

Senator **Cohen**. What to your knowledge did the Justice Department learn about the connection between Hasenfus and the Iranian connection?

Mr. **Meese**. I know of no connection that was ever learned. The only thing that I knew at that time for the first time when Admiral Poindexter talked to me was that the same airline was being used—the same airline that Hasenfus apparently had been connected with, Southern Air Transport, was also being used in the Iranian enterprise.

Senator **Cohen**. Do you think you should have inquired into the possible involvement of U.S. officials using at that point military support for the Contras by Hasenfus and his assistants?

Mr. **Meese**. I knew nothing about that. This was entirely being conducted by the FBI or others, and there was no connection either implied or made apparent or even hinted at at the time of Mr. Poindexter's call.

EXCERPT NO. 3

Senator **Bradley**. Mr. Attorney General, let's if we could continue on from the 23rd of November, Sunday the 23rd, Monday the 24th.

Monday the 24th you did what? You said you dispensed people to the field.

Mr. **Meese**. No, no, on Monday the 24th I asked our attorneys to look at what possible criminal laws might be applicable or what laws might be applicable to what we had found out, to these facts.

Senator **Bradley**. And did you do anything else relating to this matter on the 24th?

Mr. **Meese**. Yes, I mentioned already that I of course met with our people and went over what we had found on the morning of Monday the 24th.

Senator **Bradley**. You met with people——

Mr. **Meese**. With people that had been working with me—Mr. Reynolds, Mr. Cooper, and Mr. Richardson. I think at that time we were joined by one other person, Mr. Cribb. I'm not sure whether I also discussed it with the FBI Director that day. I had discussed this with the FBI Director on Friday the 20th, and I know I discussed it with the FBI Director on the 25th, but I'm not sure whether I discussed it with him on the 24th.

I also talked on the—with the President, as we have heard. I talked with Mr.—with Admiral Poindexter, as we've heard. I talked with Mr. McFarlane, I believe, on that day also to find out what he knew about it. I also talked with the Vice President.

Senator **Bradley**. So you talked to Poindexter—this is McFarlane's second interview.

Mr. **Meese**. Yes. It was a very short episode.

Senator **Bradley**. And Poindexter's first interview Monday afternoon?

Mr. **Meese**. Yes.

Senator **Bradley**. Anyone else that day?

Mr. **Meese**. Yes; I talked to the Vice President and I talked with Mr. Regan, Don Regan, and I may have talked with Mr. Casey during the course of the day. I'm not sure.

Senator **Bradley**. Now, anyone else you talked to that day on this?

Mr. **Meese**. It's possible there may have been something. I may have advised my deputy, Mr. Burns, I'm not sure.

EXCERPT NO. 4

Senator **Bradley**. Now, on November 25—that was the day you had the press conference.

Mr. **Meese**. The first event that day was that I got a call from Bill Casey about 6:30 in the morning just as I was leaving the House, and he asked me to come by, and so we talked about the situation there. He had—I can't remember all of the conversation, but it was generally about the situation and about this development. I think he told me that—I don't think I talked with Mr. Casey on the 24th, because I think he told me that Don Regan had told him about this, and that was——

Senator **Bradley**. Don Regan had told him about the memo?

Mr. **Meese**. Talked to him about the contra—no, about the contras, the money-to-the-contras situation.

Senator **Bradley**. But Don Regan found out?

Mr. **Meese**. I talked to him on Monday, and I think Don Regan talked to Bill Casey on Monday night. I met with Mr. Casey on my way from the house to work at about a quarter to 7:00.

Senator **Bradley**. At the Agency?

Mr. **Meese**. No, at his home.

Senator **Bradley**. At his home?

Mr. **Meese**. At his home. He just lives about a mile from where I do.

Senator **Bradley**. Is this the second meeting at his home?

Mr. **Meese**. Yes; uh-huh.

Senator **Eagleton**. Is this with Casey?

Senator **Bradley**. This is with Casey. This is the morning of the 25th?

Mr. **Meese**. Morning of the 25th; right. And while I was there I received a call from Don Regan, who had been trying to get me, and Don advised me that he had talked—I think he had talked with Poindexter or was going to talk with Poindexter, and that—just verifying that I would be at the White House at 9 o'clock.

Senator **Bradley**. OK. So you got to the White House. You had a series of other meetings. And then——

Mr. **Meese**. We met with the President.

Senator **Bradley**. You told him what you'd found out?

Mr. **Meese**. Well, further told him what I found out, and I felt that we would have to convene a criminal investigation, and that—that we would probably convene a criminal investigation, I think is the way I said it, but that again it was a matter of getting this information out.

And then we discussed several things. One, the appointment of a special review board. Secondly, the meeting with the National Security Council to discuss it with them and advise them. Third, the meeting with the congressional leadership. And fourth, a public statement.

Senator **Bradley**. And then, after you had the press conference, the rest of that day, November 25, what other meetings did you have relating to——

Mr. **Meese**. Well, I met with the FBI Director and advised him that we were starting the Criminal Division on it and that we would probably be needing FBI resources. I directed that since we were starting a criminal investigation that we have the process that has been set up with the White House and the Department of Justice that the Deputy Attorney General notify the White House Counsel to be sure that security precautions were taken on any documents. I directed the head of the Criminal Division, the Assistant Attorney General, to proceed to an examination and to meet with the Office of Legal Counsel Assistant Attorney General to discuss the possible laws that might apply, including criminal laws.

Senator **Bradley**. Now did you talk to the President any more that day?

Mr. **Meese**. On the 25th I don't think so. I don't think after I left the White House at noon, I don't think I did.

Well, as a matter of fact I did, because that was the day that the President had the Supreme Court for lunch, and so after I finished with the press conference, I went over and joined the lunch. I had been invited previously. And so I talked with him and I think walked back to the Oval Office with him after the Supreme Court lunch.

Senator **Bradley**. And did you discuss this subject at all?

Mr. **Meese**. I'm sure we did, but it was in general terms, and I told him that I was going back to the Justice Department because we were pursuing the criminal investigation at the point.

EXCERPT NO. 5

Senator **Boren**. I apologize if I go over ground that has already been covered by others.

Have you been asked about the delay requesting the FBI in the Hasenfus case?

Mr. **Meese**. Yes, I was, and I submitted a document which kind of memorializes what happened, which is a Committee document now.

Senator **Boren**. What was the specific basis for the request?

Mr. **Meese**. Admiral Poindexter called me and said that the Southern Air Transport, which had been involved apparently in the Hasenfus matter, was also involved in providing transportation in regard to the Iranian initiative, and that there was some important activities coming up. And my best recollection, my impression is that people from Southern Air Transport were being asked to be—either meet with FBI agents in the investigation or were required to be present because the FBI was coming to the headquarters of Southern Air Transport, something along that line, and that could that investigation be delayed for a few days while this other activity took place.

And I said I would find out and if possible we would do that.

Senator **Boren**. Was there any inquiry made at that time about any possible involvement of U.S. officials with the military support for the contras by Hasenfus and his associates?

Mr. **Meese**. No; I had no discussion with that nor did that ever occur to me.

Senator **Boren**. You had no reason to believe at that time whatsoever there could have been some connection with Government officials in the funding of these efforts?

Mr. **Meese**. No, none at all.

EXCERPT NO. 6

Senator **Cohen**. Let me ask one final question: Why would the FBI investigation interrupt the use of that plane to free the hostages?

Mr. **Meese**. My understand—my impression was, and I can't remember the exact conversation, but my impression was that the personnel who would be involved in this activity were needed on the flights and part of this transportation, or that somehow that they would be diverted from what they should be doing by the FBI being there for purposes of looking at records or interviewing people or something like that. That was the impression that I got.

Senator **Eagleton**. Mr. Attorney General, you mentioned in the summer of 1986 someone at the Department of Justice informed Meese—that's why I marked it down—about information about arms in Iran. Meese asked could it be authorized. Meese called Poindexter. Poindexter said no.

Those are my cryptic notes, to refresh your memory.

Who is this someone in DOJ that informed——

Mr. **Meese**. I don't have any recollection, Senator, of who it was. I just remember the incident happening, and I checked into it, got back to him, and that was the end of it. I don't believe I made any record of it at the time.

Senator **Eagleton**. It concerned you enough when this person informed you that you made a subsequent call about it to a high-ranking person.

Mr. **Meese**. I was the only one in the Department of Justice that knew about the Iranian initiative, and I wanted to be sure that there was no possible connection between these two things.

Senator **Eagleton**. Well, if you can't remember the person that informed you, can you remember the gist of what the person informed you about?

Mr. **Meese**. It wasn't information—the best of my recollection is that there was information that had come to the FBI about certain people, and I think they were specified by name, who were involved in an arms transaction in regard to Iran. And I don't know why the question was asked whether this might be authorized or something like that, but it was asked, or at least I was informed of this, was there any American connection or anything like that or any U.S. Government connection? It may be that there have been conversations among the group or something that would have led to that: I don't know.

In any event I wanted to be sure that there was no connection between that operation that I was being told about that had come to the attention of either the FBI or someone in Justice, and this Iranian initiative, which was highly classified, and that's why I made the check with Admiral Poindexter.

Senator **Eagleton**. And Poindexter said no.

Mr. **Meese**. He said no, and I think I either had already said that there was no connection or—and just wanted to verify it—or else I got back to the people involved.

Senator **Eagleton**. Well, if someone tells you this, Poindexter tells you no, and then you get back to the people involved, can't you remember who that someone was or who you got back to?

Mr. **Meese**, I honestly can't; no. It may have even been brought to me by someone on my staff as a message from the FBI. I can't be sure. It was kind of a matter of the fact type of thing that we do all the time.

EXCERPT NO. 7

The **CHAIRMAN**. Ed, do you recall the date on which you first talked to Bill Webster about this matter, to initiate the FBI part of the investigation?

Mr. **MEESE**. Well, it was—I talked to him on—I had talked to him generally, so he knew what was going on on Friday, and at that time I think we both——

The **CHAIRMAN**. On Friday, the——

Mr. **MEESE**. Friday, the 21st.

The **CHAIRMAN** [continuing]. 21st.

Mr. **MEESE**. And at that time we agreed that—he happened to be in the offices; he is in the office quite frequently, and in the course of the discussion I talked with him about it, told him what the President had asked me to do, and we agreed that there was no criminal matter involved and that it would not be appropriate for the FBI to bring in—to be brought in.

He assured me that any time that they could be of help he would want them to be. I indicated that whatever time—that if anything developed where they should be involved, that I would certainly call upon them.

I don't know whether I talked with him on Monday, the 24th. I know I talked with him, I am almost positive, on the 25th, and at that time advised him that I was turning this over to the Criminal Division and we probably would need FBI resources; and, in fact, they were requested the following day after the Criminal Division had started.

The **CHAIRMAN**. On the 26th?

Mr. **MEESE**. Right.

The **CHAIRMAN**. So the FBI has then been involved since Wednesday, the 26th?

Mr. **MEESE**. Since Wednesday, the 26th; right.

OFFICE OF INDEPENDENT COUNSEL,
Washington, DC, March 25, 1987.

Mr. SVEN HOLMES,
Staff Director/General Counsel, U.S. Senate, Select Committee on Intelligence, Senate Hart Office Building, Washington, DC.

DEAR SVEN: As you know, Senator Boren and Senator Cohen have requested documents concerning Judge Webster's actions in connection with the delay of an investigation of Southern Air Transport.

We have identified two documents which relate to Judge Webster's involvement in the underlying events and which were generated in the course of those events: (1) a November 12, 1986 letter from John Martin to William Weld, and (2) Judge Webster's October 31, 1986 memo to Floyd Clarke explaining the reasons for the delay. Both documents are enclosed.

Since our telephone conversation last week, we have located two additional documents, dated November 24 and 26, 1986, relating to the resumption of the investigation. Both of these documents are classified "SECRET." Please let me know if you would like to make arrangements to review these documents.

We are continuing our efforts to identify any other documents which relate to Judge Webster's role and which were generated in the course of the underlying events in question.

The letter from Senator Boren and Senator Cohen mentions an investigation by the Office of Professional Responsibility. The only documents produced by that office were handwritten notes of preliminary interviews of persons other than Judge Webster that took place before the Independent Counsel assumed jurisdiction of the investigation.

I hope that the enclosed documents are responsive to the Committee's request. Please let me know if we may be of further assistance.

Sincerely yours,

Enclosures.

GUY MILLER STRUVE,
Associate Counsel.

NOVEMBER 12, 1986.

To: William F. Weld, Assistant Attorney General, Criminal Division.
From: John L. Martin, Chief, Internal Security Section, Criminal Division.
Subject: Investigation of Southern Air Transport.

Attached hereto is a copy of a memorandum, dated October 31, 1986, from Judge Webster to Assistant Director Floyd Clarke of the Bureau's Criminal Investigative Division. Briefly, Judge Webster's memorandum advises that in accordance with a request from Associate Attorney General Steve Trott, the Bureau was to suspend its ongoing investigation of the captioned matter for a period of 10 days, because of possible prejudice to "some sensitive hostage negotiations."

As you know, this matter involves Eugene Hasenfus, the crew member of the C123 aircraft shot down over Nicaragua on October 7, 1986. The Bureau is anxious to resume its investigation, but, even though the 10-day period requested by Steve Trott has expired, it is unwilling to do so without the Department's approval.

Unless you advise to the contrary, I intend to advise the Bureau that it is free to resume its investigation without further delay.

Attachment.

U.S. DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, October 31, 1986.

MEMORANDUM TO MR. CLARKE RE: SOUTHERN AIR TRANSPORT

This confirms my telephone conversation with you late yesterday afternoon. Associate Attorney General Stephen Trott called on the secure line at the request of the Attorney General to ask that we suspend for ten days any non-urgent work in the Southern Air Transport Neutrality Act investigation. Apparently there are some sensitive hostage negotiations now under way that could possibly be prejudiced. He emphasized that the Attorney General did not want to do anything which would wreck the investigation but simply to permit a good climate for the negotiations to the extent possible. You informed me that we were just at the preliminary stages and that this should present no difficulty.

I would like to know if these instructions create problems for us at any time.

WILLIAM H. WEBSTER,
Director.

Chairman BOREN. At this time I will turn to the other members of the committee for opening statements and comments which they might have, beginning with the Vice Chairman, Senator Cohen.

STATEMENT OF HON. WILLIAM S. COHEN, A U.S. SENATOR FROM THE STATE OF MAINE AND VICE CHAIRMAN OF THE SENATE SELECT COMMITTEE ON INTELLIGENCE

Senator COHEN. Thank you very much, Mr. Chairman.

Judge Webster, I want to welcome you to the committee this morning along with the 2 show-me Senators from Missouri. Of course, we have had a chance to work with you in the past several years in your capacity as FBI Director, and in that position you have had primary responsibility for U.S. counterintelligence activities within this country. And personally, I believe that your willingness to serve as Director of Central Intelligence after those 9 years as Director of the Federal Bureau of Investigation really does set an exemplary standard for public service. I think the President ought to be congratulated for nominating a man of your integrity and demonstrated ability to this important post.

As I understand it, this represents your fifth confirmation proceeding. I think by this time you know what to do and we'll see if we can't make it interesting.

This comes to a time when the CIA and the intelligence community as a whole are in a degree of turmoil, when their involvement in the Iran arms sale and the assistance to the Nicaraguan Contras is the subject of investigations and of media inquiry, when we have shrinking budgets that are forcing difficult programmatic decisions, and when it appears that there are serious deficiencies in the security measures needed to protect intelligence operations.

So in short. today, perhaps more than at any other time in this Administration, the job calls for strong leadership, for someone who can represent the intelligence community's interests effectively and credibly, and who can restore the public's confidence in the intelligence community and its activities. I believe your appointment as Director of Central Intelligence would provide that strength and assurance.

As you know, and as the Chairman has indicated, you wear at least 2 hats, possibly 3, one as coordinator of the U.S. intelligence activities, and the other as head of the Central Intelligence Agency. In both capacities, the focus of the DCI's activities is external to the United States in collecting and analyzing information necessary to support our defense and foreign policy objectives and in undertaking other types of operations, specifically covert operations.

These are areas that have not, for the most part, been an integral part of your prior professional training and experience, either as an attorney, a Federal judge, or more recently, as FBI Director.

Accordingly, neither this committee nor the American people have a very clear perception of your views on a number of fundamental questions, views which we ought to know prior to voting on your confirmation as DCI. These questions would include issues such as covert action, the strengths and weaknesses of our intelligence community, how you view the responsibilities of the DCI toward the President and especially toward this Congress.

I am hopeful that we can use the public hearing to explore some of these topics with you and establish a firmer understanding of your views in these areas for which you will be responsible if confirmed.

According to today's Washington Post, you intend to indicate that the Attorney General treated you like a "shunned lover" on the issue of the FBI's interest in investigating the Iran arms sale; that you offered your services, but the phone call never came. I can assure you that if you are confirmed as the Director, this committee will call upon your services. We'll be sure to call you at least once a day.

Thank you, Mr. Chairman.

Chairman **Boren**. Senator DeConcini.

STATEMENT OF DENNIS DeCONCINI, A U.S. SENATOR FROM THE STATE OF ARIZONA

Senator **DeConcini**. Mr. Chairman, I, too, welcome Judge Webster, and concur with our colleagues as to the outstanding service you have given to this country, Judge Webster, even before you were nominated by President Carter to be the Director of the FBI, as a Federal jurist. I think as FBI Director you have brought a tremendous amount of credibility to that agency, even though there are still and probably always will be certain criticisms of some of its actions, which are necessary to be carried out in at least your judgment and your subordinates. I welcome your nomination, Judge Webster.

I feel that the CIA itself, though its budget has increased immensely under former Director Casey, has never, at least in the 10 years I have been here, has the CIA been in such shambles. Nor has it had such image problems nationally and internationally of being an agency which is not tuned in, not under control, and doesn't know what it is doing. I don't think that is the case, but I believe that at least from my constituents and my travel, it is certainly the perception. You will face the problem of how do you bring credibility that you were able to bring to the FBI.

I want to assure you that I believe, in my short tenure on this committee, but even before, looking at the quality of people who serve as Chairman and Vice Chairman and the other members on this committee, that you have people here who are prepared to assist you and not be destructive in maintaining and building the intelligence community capacity to serve this nation. I hope that you will feel comfortable after you're confirmed, to confide and to consult with this committee, as often as you can.

I am a firm believer that foreign policy, including covert activities, is based on a consensus, on a bipartisan basis, and when President Reagan or Carter or anyone else has run into problems, it is because he has decided not to build a consensus. It is the Director of the CIA who makes the difference, in my judgment, in building that consensus. That is one of the reasons I am so pleased and proud that the President has appointed you, because I think you have proven you have that capacity. I wish you every success.

I have some questions, Mr. Director, that I will ask later, of course. I want you to understand these are questions that are not of a critical nature, but I feel should be laid out in the record. Perhaps someone else with more seniority may already have touched on those questions, and if so, I will remain silent.

Thank you. Thank you, Mr. Chairman.

Chairman BOREN. Thank you very much, Senator DeConcini. Senator Roth.

STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM THE STATE OF DELAWARE

Senator ROTH. Thank you, Mr. Chairman.

I, too, want to welcome you, Judge Webster. I was very pleased when the President sent your name up for this very, very important position.

Judge Webster, I was on the floor this morning introducing a package of espionage legislation for the 100th Congress. It is a broad series of measures that I believe will address some of our most serious problems in what could be called the Decade of the Spy. Now, my reason for bringing this up at this time is that I do intend to ask for your views, both as the Director of the FBI and as the nominee to be the new Director of Central Intelligence. Senator Dole joined me in this legislation, which will include a number of separate proposals, and I will advise you what they are so that we can proceed when it becomes my turn to raise questions. The question of restrictions on Soviet bloc personnel, or the satellite nations, whether we should have some restrictions on them in this country. The question of whether there should be the death penalty for very, very serious spy offenses. The United Nations is proposing a new office for research and collection of domestic information in each member country as to the political situation, whether or not this offers an opportunity for spying. And finally, I will be asking some questions on the current impasse over the new U.S. Embassy in Moscow, whether or not we should permit the Soviet Union to occupy the proposed buildings in the city of Washington.

I think these are pertinent questions, and again, Judge Webster, I want to welcome you here today.

Chairman BOREN. Thank you very much, Senator Roth. Senator Hatch.

STATEMENT OF HON. ORRIN HATCH, A U.S. SENATOR FROM THE STATE OF UTAH

Senator HATCH. Thank you, Mr. Chairman.

Judge Webster, I have had a lot of contact with you as a member of the Judiciary Committee over the last 10 years, and I just want to compliment you for your selection for this position. And I will be very interested in the hearings and will pay a great deal of attention. I have a conflict, because we have the Catastrophic Health Hearings upstairs in my other committee, but I will be coming in and out. We just appreciate the service you have given to the country. We'll look forward to these hearings clearing the air and also look forward to your confirmation and your work as the Director of Central Intelligence.

I think you'll find that it will be just as interesting if not more so than Director of the FBI, and I look forward to working with you.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you, Senator Hatch. Senator Murkowski.

STATEMENT OF HON. FRANK MURKOWSKI, A U.S. SENATOR FROM THE STATE OF ALASKA

Senator MURKOWSKI. Thank you, Mr. Chairman.

Judge Webster, let me join other Members of this Committee and express my pleasure that the President has selected you as his nominee for the next Director of Central Intelligence.

There can be no doubt of the importance of this nomination. Events of recent months and the headlines even as we meet, have underlined over and over again the critical role played by the DCI and the agencies which he leads in defending national security.

Your record as Director of the FBI for the past nine years has demonstrated your intellectual ability, your management and political skills, and your integrity. These are all qualities crucial to the effective performance of a DCI. I believe you also appreciate the role of Congressional oversight of intelligence and the critical importance of trust and candor in the relationship between the DCI and this Committee.

Your reputation and experience bode well for the Intelligence Community and for all of us who have been trying to strengthen the intelligence capabilities of the United States.

Chairman BOREN. Thank you Senator Murkowski.

Senator Specter.

STATEMENT OF HON. ARLEN SPECTER, A U.S. SENATOR FROM THE STATE OF PENNSYLVANIA

Senator **Specter**. Thank you, Mr. Chairman.

Judge Webster, I join my colleagues in welcoming you here this morning. There is no more important job in the Federal government, perhaps short of the presidency, than the one that you have been nominated for, and I think had there ever been any doubt about that, it would have been dispelled by the events of the past 6 months with respect to what has happened on the sale of arms to Iran and the diversion of funds to the Contras.

Certainly the U.S. intelligence gathering operation is one of enormous importance in may respects. First, on foreign policy, if we are to have a successful foreign policy the CIA has to do its job on intelligence gathering. Beyond the function of gathering of intelligence itself, then there is the responsibility to advise the President on those Findings. And I think that requires independence and it requires restraint. And it may require—perhaps does require—telling the President what he doesn't want to hear on occasion, and perhaps even repeating it when he doesn't want to hear it. And beyond advising the President, it is the responsibility to tell the Congressional Oversight Committees what the Congressional Oversight Committees have a right to know.

There may be some problem perhaps on the longstanding issue of serving two masters—I don't think so—because every official has an obligation to follow the law, and if there is a violation of law, especially ranking officials have an obligation to follow the law on an independent basis.

If our intelligence operations are to be successful, there is a real need for covert action, and at this time the covert action has fallen under disrepute because of the issue of an appropriate finding and the issue of timely notice to this committee. These questions will obviously be paramount in these proceedings, because we do not have to ask you hypothetical questions as to how you would discharge your duties as Director of the CIA because we have a case in point where we are trying to define standards for the appropriate role of timely notification and appropriate disclosure to the Congressional Oversight Committees.

As you know from our prior conversations, I have certain questions that I want to ask you about Abscam. And I do join in the welcome here and look forward to your testimony.

Thank you, Mr. Chairman.

Chairman **Boren**. Thank you, Senator Specter. Senator Warner.

STATEMENT OF HON. JOHN WARNER, A U.S. SENATOR FROM THE STATE OF VIRGINIA

Senator **Warner**. Thank you, Mr. Chairman.

I join others in welcoming this distinguished public servant and, on behalf of the citizens of this country, thank you for taking on this assignment rather than returning to the private sector and enriching yourself.

I, too, will join in the questions raised by my colleague from Pennsylvania concerning your relationship with the President. Not particularly this President, but the CIA Director has a very special relationship with any President—particularly your ability to look him straight in the eye and say Mr. President, this is bad advice you have gotten by someone else, and I caution you and suggest you change the course of action.

I am sure you have the strength and the conviction to do that. It is for that reason that you are going to have my whole-hearted support.

Thank you.

Chairman **Boren**. Thank you, Senator Warner. We are privileged this morning to be joined by the former Vice Chairman of this committee, the Senator from New York, Senator Moynihan, who has indicated to me he would like to also make a brief opening statement and some remarks on this occasion.

We're very happy to have you with us this morning, Senator Moynihan, and I recognize you at this time.

STATEMENT OF HON. DANIEL P. MOYNIHAN, A U.S. SENATOR FROM THE STATE OF NEW YORK

Senator **Moynihan**. You are very generous, Mr. Chairman, and Judge Webster, I am a bit of a voice from the past here, but I have something that I would like to put on the record, because it is something that will be part of the situation you come into. It has to do with the question of the ways in which the Senate Intelligence Committee is informed about anticipated covert activities, significant ones.

In 1984, the beginning of 1984, the Agency made the decision to mine harbors in Nicaragua. This committee was not informed. This caused a great deal of distress with Senator Goldwater and myself and other members.

We decided to see if we could not make a better arrangement—have something come out of our misunderstanding, if that was what it was. On June 6, 1984, Mr. Casey, Senator Goldwater and I signed an agreement that had been approved by the President and the National Security Advisor which came to be known as the Casey Accords.

The Accords had a very simple proposition: how would we define the word "significant"? What does that word mean. Judges frequently have to do that with statutes. We said, as a working definition, if the President approves an activity, we will take that to be significant, because there are only so many things he can get to and some things that no one would do without his approval.

That simple 3 page agreement had 10 points, and the tenth point said that within a year we will review this agreement and see how it is working. And indeed an addendum was reached and signed. Only it was not done within the year. As things will do, it stretched on. And so the second agreement was not signed until June 17, 1986. We have first an 1984 agreement, then 2 years later an 1986 agreement.

The 1986 agreement states that, "The Committee and the DCI agree that the Procedures," capital P, "have worked well and that they have aided the committee and the DCI in the fulfillment of their respective responsibilities."

They added a few specific details to be considered as also automatically requiring notification, one of which said that even though a President doesn't necessarily approve, when "significant military equipment actually is to be supplied for the first time in an ongoing operation."

Now, Judge Webster, this agreement, this signed understanding of June 17, took place 5 months after the Presidential Finding to ship arms to Iran. I have no more comment than to say that we have to see it as profoundly deceptive, and in the circumstances near to heartbreaking. I mean, the effort to produce an understanding on notification, made in such good faith by this committee, was greeted in the other direction—I leave it to you to make your own judgments about it, but that the DCI could sign such a statement in June 1986, co-signed by the Chairman and Vice Chairman of this committee, was ruinous of a relationship which has to be reestablished. I am confident, sir, that you can do so. But I would want to bring to your attention what happened and it is really wrenching to know that it happened.

Mr. Chairman, I would ask that the full text of the Accords be included with my testimony at this point.

Thank you, Mr. Chairman.

Chairman BOREN. Thank you, very much, Senator Moynihan. I think it is always useful to us to have that perspective and to understand the context in which we are now operating. Too often we are not aware enough of events that have taken place in the past and the procedures that have been put in place. I think it is very helpful to us to have that information before us, and I appreciate your entering it into the record this morning.

[The documents referred to follow:]

U.S. SENATE,
Washington, DC, April 8, 1987.

Hon. DAVID L. BOREN,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for the opportunity to again appear before your committee to offer some background on the "Casey Accords." While you are very aware of the history involved, I thought it important to get the details on record as you contemplate the nomination of Judge Webster.

With this in mind, could I ask that a copy of the original agreement and subsequent addendum be included in the hearing record just after my remarks. I do thank you.

Best,

DANIEL P. MOYNIHAN.

PROCEDURES GOVERNING REPORTING TO THE SENATE SELECT COMMITTEE ON INTELLIGENCE (SSCI) ON COVERT ACTION

The DCI and the SSCI agree that a planned intelligence activity may constitute a "significant anticipated intelligence activity" under section 501 of the National Security Act of 1947 (the "Intelligence Oversight Act of 1980") even if the planned activity is part of an ongoing covert action operation within the scope of an existing Presidential Finding pursuant to the Hughes-Ryan Amendment (22 U.S.C. 2422). The DCI and the SSCI further agree that they may better discharge their respective responsibilities under the Oversight Act by reaching a clearer understanding concerning reporting of covert action activity. To this end the DCI and the SSCI make the following representations and undertakings, subject to the possible exceptional circumstances contemplated in the Intelligence Oversight Act:

(1) In addition to providing the SSCI with the text of new Presidential Findings concerning covert action, the DCI will provide the SSCI with the contents of the accompanying scope paper following approval of the Finding. The contents of the scope paper will be provided in writing unless the SSCI and the DCI agree that an oral presentation would be preferable. Any subsequent modification to the scope paper will be provided to the SSCI.

(2) The DCI also will inform the SSCI of any other planned covert action activities for which higher authority or Presidential approval has been provided, including, but not limited to, approvals of any activity which would substantially change the scope of an ongoing covert action operation.

(3) Notification of the above decisions will be provided to the SSCI as soon as practicable and prior to implementation of the actual activity.

(4) The DCI and the SSCI recognize that an activity planned to be carried out in connection with an ongoing covert action operation may be of such a nature that the Committee will desire notification of the activity prior to implementation, even if the activity does not require separate higher authority or Presidential approval. The SSCI will, in connection with each ongoing covert action operation, communicate to the DCI the kinds of activities (in addition to those described in Paragraphs 1 and 2) that it would consider to fall in this category. The DCI will independently take steps to ensure that the SSCI is also advised of activities that the DCI reasonably believes fall in this category.

(5) When briefing the SSCI on a new Presidential Finding or on any activity described in paragraphs 2 or 4, the presentation should include a discussion of all important elements of the activity, including operational and political risks, possible repercussions under treaty obligations or agreements, and any special issues raised under U.S. law.

(6) To keep the SSCI fully and currently informed on the progress and status of each covert action operation, the DCI will provide to the SSCI: (A) a comprehensive annual briefing on all covert action operations; and (B) regular information on implementation of each ongoing operation, with emphasis on aspects in which the SSCI has indicated particular interest.

(7) The DCI and the SSCI agree that the above procedures reflect the fact that covert action activities are of particular sensitivity, and it is imperative that every effort be made to prevent their unauthorized disclosure. The SSCI will protect the information provided pursuant to these notification procedures in accordance with the procedures set forth in S. Res. 400, and with special regard for the extreme sensitivity of these activities. It is further recognized that public reference to covert action activities raises serious problems for the United States abroad, and, therefore, such references by either the Executive or Legislative Branches are inappropriate. It is also recognized that the compromise of classified information concerning covert activities does not automatically declassify such information. The appearance of references to such activities in the public media does not constitute authorization to discuss such activities. The DCI and the SSCI recognize that the long established policy of the U.S. Government is not to comment publicly on classified intelligence activities.

(8) The DCI will establish mechanisms to assure that the SSCI is informed of planned activities as provided by paragraphs 1 through 4, and that the Committee is fully and currently informed as provided by paragraph 6. The DCI will describe these mechanisms to the SSCI.

(9) The SSCI, in consultation with the DCI when appropriate, will review and, if necessary, refine the mechanisms which enable it to carry out its responsibilities under the Intelligence Oversight Act.

(10) The DCI and the SSCI will jointly review these procedures no later than one year after they become operative, in order to assess their effectiveness and their impact on the ability of the DCI and the Committee to fulfill their respective responsibilities.

BARRY GOLDWATER,
Chairman, SSCI.
DANIEL P. MOYNIHAN,
Vice Chairman, SSCI.
WILLIAM J. CASEY,
Director, Central Intelligence.

ADDENDUM TO PROCEDURES GOVERNING REPORTING TO THE SENATE SELECT COMMITTEE ON INTELLIGENCE ON COVERT ACTION

(1) In accordance with Paragraph 10 of the Procedures Governing Reporting to the SSCI on Covert Action, executed on June 6, 1984, the SSCI and the DCI have jointly reviewed the Procedures in order to assess their effectiveness and their impact on the ability of the Committee and the DCI to fulfill their respective responsibilities under section 501 of the National Security Act of 1947.

(2) The Committee and the DCI agree that the Procedures have worked well and that they have aided the Committee and the DCI in the fulfillment of their respective responsibilities. The Committee and the DCI also agree to add the following Procedures set forth below:

> In accordance with the covert action approval and coordination mechanisms set forth in NSDD 159, the "advisory" format will be used to convey to the SSCI the substance of Presidential Findings, scope papers, and memoranda of notification.
>
> Advisories will specifically take note of any instance in which substantial nonroutine support for a covert action operation is to be provided by an agency or element of the U.S. Government other than the agency tasked with carrying out the operation, or by a foreign government or element thereof. It is further agreed that advisories will describe the nature and scope of such support.
>
> In any case in which the limited prior notice provisions of section 501(a)(1)(B) of the National Security Act are invoked, the advisory or oral notification will affirm that the President has determined that it is essential to limit prior notice. It is further agreed that in any section 501(a)(1)(B) situation, substantive notification will be provided to the Chairman and Vice Chairman of the SSCI at the earliest practicable moment, and that the Chairman and Vice Chairman will assist to the best of their abilities in facilitating secure notification of the Majority and Minority leaders of the Senate if they have not already been notified. It is understood that responsibility for accomplishment of the required notification rests with the Executive Branch.
>
> It is understood that paragraph 6 of the Procedures, which requires that the SSCI shall be kept fully and currently informed of each covert action operation, shall include significant developments in or related to covert action operations.
>
> The DCI will make every reasonable effort to inform the Committee of Presidential Findings and significant covert action activities and developments as soon as practicable.

(3) In accordance with paragraph 4 of the Procedures, the DCI recognizes that significant implementing activities in military or paramilitary covert action operations are matters of special interest and concern to the Committee. It is agreed, therefore, that notification of the Committee prior to implementation will be accomplished in the following situations, even if there is no requirement for separate higher authority or Presidential approval or notification:

> Significant military equipment actually is to be supplied for the first time in an ongoing operation, or there is a significant change in the quantity or quality of equipment provided;
>
> Equipment of identifiable U.S. Government origin is initially made available in addition to or in lieu of nonattributable equipment;
>
> There is any significant change involving the participation of U.S. military or civilian staff, or contractor or agent personnel, in military or paramilitary activities.

(4) The DCI understands that when a covert action operation includes the provision of material assistance or training to a foreign government, element, or entity that simultaneously is receiving the same kind of U.S. material assistance or training overtly, the DCI will explain the rationale for the covert component.

(5) The DCI understands that the Committee wishes to be informed if the President ever decides to waive, change, or rescind any Executive Order provision applicable to the conduct of covert action operations.

(6) The Committee and the DCI recognize that the understandings and undertakings set forth in this document are subject to the possible exceptional circumstances contemplated in section 501 of the National Security Act.

(7) The Procedures Governing Reporting to the SSCI on covert action, as modified by this agreement, will remain in force until modified by mutual agreement.

DAVE DURENBERGER,
Chairman, SSCI.
PATRICK LEAHY,
Vice Chairman, SSCI.
WILLIAM J. CASEY,
Director, Central Intelligence.

Chairman **Boren**. We have been joined by another member of the committee this morning, and I believe he has opening comments to make. Senator Hecht, I am pleased to recognize you at this time.

STATEMENT OF HON. CHIC HECHT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator **Hecht**. Thank you, Mr. Chairman.

Nice to see you this morning, Judge. Nice to welcome a Missourian, since I was a native Missourian before moving to Nevada. I will have some questions for you after listening to your comments, pertaining to the local level in Nevada, your tenure—your present position on the national level and international level.

Nice to have you here today.

Chairman **Boren**. Thank you, Senator Hecht.

Judge Webster, this morning I notice that you have two very distinguished members of the Senate here to introduce you. Let me say you could not be accompanied by two finer individuals to officially present you to this committee this morning. They are widely respected by members on both sides of the aisle. It is a privilege to have them here with you this morning, and to know that those from your home State think highly of you is a very high recommendation.

At this time I am privileged to recognize the senior Senator from Missouri, Senator Danforth. Senator Danforth, we are glad to have you with us this morning.

STATEMENT OF HON. JOHN C. DANFORTH, A U.S. SENATOR FROM THE STATE OF MISSOURI

Senator **Danforth**. Mr. Chairman, thank you, very much, members of the committee. Sitting here listening to the opening statements I am reminded of seeing Judge Webster several weeks before the President designated him as the next Director of the Central Intelligence Agency and asking him what he would be doing after his departure from the FBI in a year. I now find out what he will be doing.

Mr. Chairman, it is often common for Senators from a nominee's State to appear before a committee to give pro forma remarks about the reputation of the person who is being considered by the committee. I want you to understand that in this case my remarks are not pro forma. In fact, Judge Webser's reputation over the last 9 years since he has served as Director of the FBI has been well known by every member of Congress. He has brought great luster to his position at the FBI. He has restored that fine organization not only to its past heights, but to, I think, an unprecedented position in the minds of the Members of Congress and indeed of the American people.

I think what I have to add to this committee's consideration is the fact that I haven't just known Judge Webster over the last 9 years; I have known him over many, many years. When I was a young lawyer just beginning to practice law in my home town of St. Louis, I can remember at that time asking other lawyers the question who were really the fine attorneys of our city; who were the people with the best reputation. And always, Judge Webster's name would be on that list.

I knew him as a lawyer. I knew him as a United States District Judge. I knew him as a member of the 8th Circuit Court of Appeals. Indeed, I believe I have a unique claim for Members of the Senate, in that I think I am the only person in the Senate ever to have tried a case in front of Judge Webster. I can say that I did not agree with his opinion in that case. [General laughter.]

I can also say that unfortunately the United States Supreme Court did agree with his opinion. [General laughter.]

In addition to my own knowledge of Judge Webster, my family's knowledge of him even predates my own. He is a contemporary of my oldest brother. He serves on the Board of Trustees of Washington University where my brother is the Chancellor. My family has known him I guess all of his life. And I am well aware of his reputation in his home community in the minds of people who have literally known him all his life.

Putting it very briefly, Mr. Chairman, Judge Webster is the pride of St. Louis. He is a person about whom it would be said by everyone who has known him, not just for 9 years, but for decades and decades, that he is a person of enormous ability, of very great character, of fine judgment. He is admired. He is respected by all of those who have known him over the period of his life. What you have seen for the past 9 years during his service as Director of the FBI is exactly what he is and what he has been.

And I guess, Mr. Chairman, this sounds more like a rhapsody than testimony, and indeed it is; it is exactly that. But it is also a statement on the part of one Senator and one friend and one constituent, of appreciation that Judge Webster has given so much of himself and his enormous talent and ability to his country, not just for the past 9 years, but for several decades now as a public servant.

Chairman BOREN. Thank you very much, Senator Danforth, for those fine comments, and Judge, the committee promises we will not hold against you your incorrect ruling in that one case cited by Senator Danforth. [General laughter.]

We are also privileged to have with us this morning the junior Senator from Missouri. I had the privilege of serving with him at the time that he was Governor of Missouri, and now the pleasure of serving with him in the Senate. Senator Bond, we are very happy to have you this morning, and we would welcome any comments from you at this time.

STATEMENT OF HON. CHRISTOPHER S. BOND, U.S. SENATOR FROM THE STATE OF MISSOURI

Senator BOND. Thank you, very much, Mr. Chairman and members of the committee.

It gives me a great deal of pleasure to be able to join with our distinguished senior Senator of Missouri in recommending to you wholeheartedly and without reservation William Webster for the position of Director of Central Intelligence. I, too, would associate myself with the comments that Senator Danforth has made about

Judge Webster. I would go a step further to say that the entire state of Missouri takes great pride in the accomplishments, the record and the high standards which Judge Webster has exemplified.

I have had the privilege of knowing Judge Webster both personally and in a professional manner for about 20 years. It was that close association and very warm feeling for him that led me, in 1977, when I heard that he was being considered as Director of the FBI, to communicate to him a real note of caution. I urged him not to take the position of the Director of the Federal Bureau of Investigation. Two things led to this unsolicited piece of advice. No. 1, since as you may recall, Mr. Chairman I was returning involuntarily to the practice of law at that time, I had hoped to see the Bench maintain the highest possible standards. Certainly Judge Webster exemplified those high standards for all who practiced law in the State of Missouri and elsewhere in the 8th Circuit.

On a more practical level, I was concerned about the condition of the FBI. Given its recent past history and the then current state of affairs, I felt that it was an impossible task for someone to go in and to restore the Federal Bureau of Investigation to the high standards it had once known. However, I should have known that Judge Webster was one who handles the difficult every day; the impossible takes only slightly longer.

His achievements as the Director of the Federal Bureau of Investigation are obviously very well known to all the members of this committee and to most concerned citizens throughout this country. I am confident that should you confirm him, as I trust and hope that you will, that he will go on to provide the same high levels of service to the people of this country in his new position as he has done at the Federal Bureau of Investigation.

It is my great pleasure and an honor once again to join with Senator Danforth recommending wholeheartedly his confirmation.

Chairman **Boren**. Thank you very much, Senator Bond. We appreciate both of you being with us this morning.

Judge Webster, at this time I would like to ask that you stand and be sworn to present the testimony before the committee this morning. If you would raise your right hand.

Do you, William H. Webster, solemnly swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Judge **Webster**. I do.

Chairman **Boren**. Thank you very much. You may be seated.

Judge Webster, again I want to welcome you, and say I have never heard finer and stronger introductory comments by two Senators from the home State of a nominee. They have been impressive indeed.

I want to ask if you have been provided with a copy of the committee rules and have had an opportunity to examine those rules?

Judge **Webster**. I believe I have, Mr. Chairman.

Chairman **Boren**. At this time we would welcome any opening remarks that you might have to make to the committee.

STATEMENT OF HON. WILLIAM H. WEBSTER, NOMINEE FOR DIRECTOR OF CENTRAL INTELLIGENCE

Judge **Webster**. Thank you very much, Mr. Chairman, distinguished members of the committee. I appreciate very much your opening remarks, and I am deeply indebted to my friends and fellow Missourians, Senator Danforth and Senator Bond, for the generous comments that they made this morning.

I have been looking forward to this moment and I appreciate very much the opportunity to appear before you today.

As Senator Cohen noted, this is now the fifth time that a committee of the Senate has considered my fitness to serve in an office requiring Presidential appointment. I am deeply honored by President Reagan's nomination of me to be Director of Central Intelligence, and if the Senate chooses to confirm me, I will bring to the office the very best that I have in me.

Mr. Chairman, I realize that past confirmations must stand apart from the process that you begin today. I know that this committee will wish to discuss with me my past stewardship in public offices, and my thoughts and views about the office for which I am now being considered. Still, I do not exactly come before this committee as a blank page. For 9 years it has been my privilege to appear before this committee in its oversight capacity and report to you on the work of the FBI in counterintelligence and counterterrorism matters and to discuss with you my views on the broader picture of national security. I hope you know by now my unreserved support for your oversight function, and my deeply held view that this function can and should provide not only wisdom and guidance, but also reinforce public support and trust for the work of the intelligence community. Indeed, as recipients of sensitive intelligence information which cannot be made publicly available, you serve as surrogates for the American people.

The responsibilities of the Director of Central Intelligence are largely defined by statute and by Executive Order. The responsibilities are awesome and no Director of Central Intelligence can succeed without your full understanding and support. It is a shared responsibility, and we must succeed.

In my years of association with components of the intelligence community, I have developed some thoughts, some ideas and views, principally in counterintelligence, but also in the broader range and function of intelligence gathering and activities in furtherance of the national security. I would not, however, want my answers to your questions today to suggest either that I think I know all the answers or that there is nothing more for me to learn. Quite the contrary. But I do have confidence in my own judgment, and even greater confidence in the enormous wisdom, talent and selfless dedication of the men and women of the Central Intelligence Agency and of the other equally competent and dedicated components of the intelligence community. I believe I can sustain and enhance the collective momentum of the intelligence community to serve the national interest aggressively, objectively and professionally, and to do so with fidelity to our Constitution, our statutes, and all lawful orders issued pursuant thereto.

Mr. Chairman, rather than burden you with a lengthy and potentially presumptuous opening statement, I should like to conclude by reading two short paragraphs from a book written some years ago about a man, now in the twilight of his life, whom I am privileged to know as a friend. His name is Sir William Stephenson, and the book which made him more famous than I suspect he would like to be is titled "A Man Called Intrepid." Bill Stephenson wrote a foreword to that book, and in that foreword he said:

> Perhaps a day will dawn when tyrants can no longer threaten the liberty of any people, when the function of all nations, however varied their ideologies, will be to enhance life, not to control it. If such a condition is possible, it is in a future too far distant to foresee. Until that safer, better day, the democracies will avoid disaster, and possibly total destruction, only by maintaining their defenses.
>
> Among the increasingly intricate arsenals across the world, intelligence is an essential weapon, perhaps the most important. But it is, being secret, the most dangerous. Safeguards to prevent its abuse must be devised, revised, and rigidly applied. But, as in all enterprise, the character and wisdom of those to whom it is entrusted will be decisive. In the integrity of that guardianship lies the hope of free people to endure and prevail.

Mr. Chairman, I wish that I had written those words. I believe them, I subscribe to them, and if confirmed will do all that I can to be worthy of your trust.

Mr. Chairman, that concludes my formal statement. As you know, I have completed a number of questions to the Senate and also some supplemental interrogatories. I should like to make one addition at this time.

I am aware of a recommendation brought to my attention on or about October 30, 1986, to withhold certain information from Lieutenant Colonel Oliver North of the National Security Council. This recommendation was made by a Department of Justice official who, based on newspaper articles, concluded that Lieutenant Colonel North might be involved in a future criminal probe by a special prosecutor concerning United States activities in Central America. The official was also of the opinion that this dissemination was not necessary because it was already available through the media.

Mr. Chairman, I do not believe that this information was contemplated in the question previously answered for the record which specifically excludes public media sources. But further, the information proposed to be withheld from Lieutenant Colonel North did not mention Lieutenant Colonel North or any other government official. I did not then nor do I now believe that any of this information was information, quote, "regarding activities of U.S. officials that had the purpose or effect of providing illegal or unauthorized assistance to the Nicaraguan resistance during the period that such assistance was prohibited by law," close quote. That was the question.

Nevertheless, on reflection, I have concluded that this information should also be provided to you and I wish to supplement my previous interrogatory with this statement. And I might add that all pertinent details regarding this matter have been furnished to the Independent Counsel.

Chairman **Boren**. Thank you very much, Judge Webster. The record will reflect that your answer has been so supplemented, and I appreciate your providing this additional information to the committee. I also appreciate the comments which you have made in your opening statement. You have eloquently described the burden which we all have to strike that appropriate balance between the need for an effective intelligence operation, one in which confidentiality of sensitive information must be maintained, and at the same time an operation that must be conducted according to law, and under the appropriate oversight of those that have been elected by the people to perform that function. I think your statement is a well taken and an eloquent one.

I also appreciate the fact that you have commented upon the talent and the dedication of countless numbers of staff people, professionals who work at the Central Intelligence Agency and throughout the intelligence community, because I think all too often it is only the problems that get the attention. By the very nature of their work, the successes never become a matter of public record. Day in and day out, we have an exceptional group of people, extraordinarily talented, courageous, committed and unselfish in many, many ways, who are performing an outstanding task. I think it is important that all of us reaffirm our appreciation to them because it is an appreciation that too often goes unstated.

As has been said in the opening comments, and I know from your own past experiences, you have exercised these kinds of responsibilities yourself, we all have the responsibility of making sure today that our inquiry into your qualifications is complete and thorough. We hope that it will be fair in every way. I know that you understand that in directing specific questions to you, no hostility is intended, but we are simply meeting our responsibility to do the job which we are given under the constitutional process.

We will go through a round of questions. I will begin that questioning, and we will just continue that process with the members of the committee until all of the members have had an opportunity to ask all the questions that they wish to ask. Some members will be coming and going during the process because of other committees that are in session this morning.

I notice in your response as you discuss the suspension of the FBI's preliminary Neutrality Act investigation of Southern Air Transport on October 30, 1986, you were informed that sensitive hostage negotiations were going on. Did you have any idea at the time that Southern Air Transport might be involved in both U.S. arms shipments to Iran and private arms deliveries to the Contras in Nicaragua?

Judge **Webster**. Mr. Chairman, I certainly did not associate the two. We had—we were opening an investigation that had to do with the crash of a transport plane in Nicaragua which had originated from El Salvador, but which had possibly some connections with Southern Air in Florida. That was a preliminary inquiry. I also had some knowledge relayed to me by a senior FBI official, Mr. Revell, who sits on the operations subgroup, the group at the National Security Council, that the same airlines had assisted in the Iranian initiatives. But that is the extent of the connection between the two.

Chairman **Boren**. If you had known that there existed some connection that might potentially involve the diversion of funds or any other kind of connection——

Judge **Webster**. Oh, no.

Chairman BOREN. Would it have made a difference to you in your decision to suspend, whether or not to suspend the FBI investigation at that point?

Judge WEBSTER. I am sure that it would, but there was no such indication.

Chairman BOREN. Let me turn your attention now to your conversations with Attorney General Meese on November 21, 1986, when he informed you of his prospective inquiry. I want to go to the nature of the conversation which you had with Mr. Meese on November 21st. Did Mr. Meese explain to you in any kind of detail why he was conducting this inquiry?

Judge WEBSTER. Well, it was a very casual conversation; it was not an agenda item. I was just visiting with the Attorney General. And he indicated to me that he had been given the ticket or had been asked by the President to straighten out the various confusing statements that were coming out of various departments of government with respect to what actually had transpired in relation to Iran and that he was going to try to get the facts straight.

Did you want me to proceed, Mr. Chairman, or did you have another question?

Senator COHEN. Could you clarify the date on which that conversation took place?

Judge WEBSTER. That was Friday, November 21st, Senator.

Chairman BOREN. How long did that conversation take?

Judge WEBSTER. I suppose I was in the Attorney General's office for probably maybe 20 minutes, and probably that conversation itself took about a minute and a half, I guess.

Chairman BOREN. So it was a very brief conversation about this inquiry. And I understand that at that time you offered assistance. Looking back, do you think—and we always can look back with more in our minds in hindsight than we would have understood at the time—do you think that the Attorney General would have been better advised to have had someone from the FBI or the Justice Department with extensive criminal law experience take part in that inquiry?

Judge WEBSTER. Well, I first should emphasize, Mr. Chairman, that neither of us saw this as a criminal inquiry. The purpose was to try to get the facts straight so that the government could be speaking with one accurate voice. And when I made that offer of assistance, I was thinking primarily in terms of manpower resources. Is there anything we can do in that way for you? He was also thinking in terms of an inquiry, a fact-finding inquiry to report back to the President. So neither of us were thinking in criminal terms.

You can always look back and ask in light of what transpired, could the FBI agents have done a better job of conducting such an inquiry or looking for materials. I don't think we're in a position yet to know really the answers to that question. There is also the downside of sending FBI agents into the White House when there is no known criminal activity to investigate. So you can say, sure, maybe we knew better how to ask the questions or maybe we knew better how to do something else. But it was not a criminal inquiry. The Attorney General took his own group of experienced attorneys from the Department of Justice. And I am just not able to say that in hindsight we could have done a better job than they did. But that——

Chairman Boren. Had you known that it was going to indeed turn into a criminal inquiry, which it did 4 days later, in essence, when you were asked to bring the Bureau into it, thinking specifically about the need to protect records and the need to protect potential evidence, had you known on the 21st that this was to become a criminal inquiry, would you at that time have advised the Attorney General that either the FBI or those within the Justice Department who have dealt with a criminal inquiry should have been brought into it specifically to protect evidence?

Judge Webster. Absolutely, Mr. Chairman. If I might go one step further, I am confident the Attorney General wouldn't have had to have that; he would have asked for it had he known it would be a criminal.

Chairman Boren. Well, I gather then it does not surprise you that the Attorney General in his testimony before the committee on December 17th, which we have released today, testified that you agreed, and I quote from this, you agreed that it would not be appropriate for the FBI to be brought in at that time.

Judge Webster. That is correct.

Chairman Boren. This morning you have entered into the record some comments in regard to a memorandum, an internal FBI memorandum dated October 30th, which bears your initials, which indicates that an official at the Justice Department had speculated that Colonel North might someday come under a criminal investigation, and that certain information which was contained in this memorandum might best be withheld from him at that time. I wondered if, when you had those discussions with Attorney General Meese on November 21st, it must have been known that Colonel North was one of those involved with the Iranian matter, if you had in mind or gave any thought to this information passing across your desk, that there were at least some people in the Justice Department who had suspicion that Colonel North might become the target of criminal investigation?

Judge Webster. No, I have to tell you in all candor it was not on my mind. In fact, I don't even recall seeing it until it was called to my attention recently in connection with preparing the answers to these questions. It came up with the kinds of informational notes that come up literally by the dozens, call for no action on my part, had been reviewed by all of my career subordinates in the criminal line. I really did not have that in mind.

Chairman Boren. So there was nothing in your mind at that time that caused you to have any feeling that this might turn into a criminal investigation.

Judge Webster. No, Mr. Chairman. It was entirely focused on Iran and the Iranian situation, the Iranian initiative. I frankly have entertained some ill ease about the role of the National Security Council in those areas, but I had no question about whether anything illegal was taking place.

Chairman Boren. Let me go now directly to the point of oversight responsibility, and of course as you know, prior notification is to be given to this committee, or at least in extraordinary circumstances to the leadership of this committee in regard to covert actions, significant intelligence gathering activities, or any illegal intelligence gathering activities that are brought to the attention of government officials. These are also to be reported.

Can you think of any circumstances in which the President should withhold prior notice altogether, even of the Chairman and Vice Chairman of this committee and the four leaders of the two Houses?

Judge **WEBSTER**. Mr. Chairman, it is difficult for me to conjure up situations in which I, based on my own experience with this committee, would want to see information withheld. This is not to say that the President might take a different view of an extraordinarily sensitive, potentially life-threatening initiative that could be damaged and lives put at risk if there were some kind of premature exposure. I have difficulty thinking of any such situations. But the President has a more overriding responsibility.

Chairman **BOREN**. If for some reason some dire emergency developed where notice were withheld from this committee, the President, of course, then is required to provide notice after the fact in a timely fashion. How would you interpret that phase, "in a timely fashion"?

Judge **WEBSTER**. Well, of course, I went to the dictionary, having a name of that kind—Webster's Dictionary—[general laughter.]

I didn't get very much help there nor really in the legislative history. It speaks about an appropriate time or in reference to something. In law, if there is a specific number of days you have to do something, then you would decide whether you did it in a timely way, that is, within the time prescribed. If there is no time, and it appears that this issue was wrestled out during the legislation, then we have to fall back on words like appropriate.

And in trying to articulate to you my view of this, which I knew that you would ask, it seems to me that notice is timely at the moment when the compelling circumstances which the President felt called for deferral ceased to be as compelling as the legitimate interests of the Congress and its Select Committee in knowing it. In other words, a deferral is not something you just put off indefinitely. A deferral goes against the tide and it should be continually revisited. It should be a subject of constant agenda review to determine whether it is appropriate at that point to let the committee know.

Chairman **BOREN**. If you had been Director of Central Intelligence during the period of time in which we have just passed with the Iranian arms situation and notification had been withheld for many months as it was, would you have advised the President that you felt it was inappropriate to withhold notification of this committee for that period of time?

Judge **WEBSTER**. I would.

Chairman **BOREN**. If you were the Director of the Central Intelligence Agency and a President took action to withhold notice for prolonged periods of time over your repeated objections and your strong feeling that it was wrong in terms of the spirit of the law and wrong in terms of public policy to continue to withhold notification, what course of action would you take?

Judge **WEBSTER**. Mr. Chairman, I believe that the Director of Central Intelligence clearly has an obligation directly with the

Senate through this committee, and that is an obligation of trust which would be breached by my continued acquiescence in something that I believed to be arbitrary, and for all the reasons that you have just stated, inappropriate. And I think that I would have to advise the President of my position on that, and if he would not authorize me to speak to you, I would have to leave. It is that simple.

Chairman BOREN. Let me ask one last question related to this matter. As you know, the law talks about intelligence gathering activities, and intelligence operations, and it says that this committee is to be notified of intelligence gathering activities and operations conducted by any agency. We have always assumed in the past that it would be the traditional agencies like the Central Intelligence Agency. We have learned in this instance that other bodies, including the National Security Council, have undertaken operations at some point in time that are intelligence activities.

If you learned of what appeared to be legal activities by, let us say, the National Security Council, agencies that are not considered traditionally intelligence operative agencies, or if you learned of illegal activities, either one, about which this committee had not been notified, would you view it as your responsibility—even though you are Director of Central Intelligence, you wouldn't be director of the National Security Council or any other agency that might be involved—would you view it as your responsibility as the overseer of intelligence in general, to report such legal or illegal intelligence activities to this Committee?

Judge WEBSTER. I would consider it my first obligation to insist that the member of the intelligence community or the National Security Council make the notification itself, and if it refused to do so, I would consider it my obligation to inform you.

Chairman BOREN. Thank you very much. Senator Cohen.

Senator COHEN. Thank you, Mr. Chairman.

Mr. Webster, you had some notice of the activities that were taking place with respect to the sale of arms to Iran, as I recall, in August of 1986.

Judge WEBSTER. That's correct.

Senator COHEN. The circumstances were such that a deputy of yours had a conversation with Colonel North, is that correct?

Judge WEBSTER. That is correct, Senator Cohen. It was not a private conversation. It was at the operations subgroup committee meeting at the Executive Office Building.

Senator COHEN. But you were concerned enough about it to contact Mr. Meese directly?

Judge WEBSTER. I was concerned enough about it to contact the Attorney General directly.

Senator COHEN. Were you concerned, for example, that it might be in violation of the Export Control Act?

Judge WEBSTER. I wasn't focusing so much on specific statutes so much as I wanted to be sure that the initiative was supported by a Presidential Finding as Lieutenant Colonel North had represented to Mr. Revell, and that the Attorney General had himself reviewed it and approved it. We've had experiences in the past when the Department of Justice has somehow gotten outside the loop on decisions in which the Attorney General really should have been involved and really should have passed judgment. And that was what I wanted to ascertain for myself and to put the Attorney General on notice, if in fact he was unaware of it.

Senator COHEN. And the Attorney General assured you that a Presidential Finding that in fact been signed, or rather that a draft had been considered?

Judge WEBSTER. The Attorney General—I asked the Attorney General was he aware of the Finding and had he seen it. He said he was aware of the Finding. He had seen it or a draft of it and that he had approved it.

Senator COHEN. Was that satisfactory in your judgment, to have a draft simply looked at by the Attorney General?

Judge WEBSTER. It was satisfactory in my judgment at the time that the Attorney General was aware of everything I was aware of, and that he had approved it as Attorney General.

Senator COHEN. Did you inquire as to whether or not Congress had been notified, or was required to be notified under that Finding?

Judge WEBSTER. No, I didn't.

Senator COHEN. Were you aware at the time of allegations about Iran's participation in the bombing of the Marine barracks in Beirut?

Judge WEBSTER. I probably was, Senator Cohen. I am not certain of the dates, but I probably was. I was informed of everything that was known at that time with respect to the bombing.

Senator COHEN. Was that a matter of some concern to you outside the legality of whether or not the Attorney General was notified about a Presidential Finding as to the propriety and wisdom of engaging in a covert operation of arms transfers to a nation that was listed as a terrorist nation, who had in fact participated in the killing, murder of 241 Marines?

Judge WEBSTER. It certainly was of concern to me that if there was to be a departure from our public policy with respect to State-sponsored terrorism, that it be done pursuant to an appropriate Presidential Finding that the Attorney General thought was lawful and appropriate.

Senator COHEN. Prior to October 30th, were members of your staff concerned abut Colonel North's alleged activities in Nicaragua, the funding of the Contras?

Judge WEBSTER. It seems to me that there was quite a flurry of publicity in the early weeks of October of 1986, in which various people including members of Congress, speculated on the activities of the United States in Central America, and I believe, although I am not absolutely certain, that Colonel North's name appeared in some of those news articles.

Senator COHEN. Do you know whether or not members of your staff, Mr. Revell in particular, contacted Mr. North to inquire as to whether he was involved in the funding of the Contras?

Judge WEBSTER. I don't know the answer to that.

Senator COHEN. Let me ask you, as of November——

Judge WEBSTER. Pardon me.

[Pause.]

Senator COHEN. That's a pose guaranteed to put you on the front pages.

Judge WEBSTER. I can't remember. I can't remember any such conversation being communicated to me. Perhaps in some other way. I do know that from time to time Lieutenant Colonel North stated—made statements in telephone calls to Mr. Revell and at meetings that whatever he was doing he was doing pursuant to authorization. But whether it related to Central America, I cannot now recall.

Senator COHEN. If the FBI had been asked to conduct the preliminary inquiry as of November 21st as opposed to Attorney General Meese, what would you have done?

Judge WEBSTER. First of all, I think I would want to know—have a clear understanding of what it is we were being asked to do. If we were being asked to assist in a factual inquiry, such as the Attorney General performed, that would be one thing. If we were asked to conduct a criminal inquiry, that would be quite another thing.

Senator COHEN. What would you have done, assuming it was only a preliminary inquiry, to find out what had been done. A newspaper article had been written revealing the fact that we had been transferring weapons to Iran at that point. There was a lot of confusion. You said you were concerned about the NSC being involved in this operation from the beginning in terms of its operational activities on a covert operation. What would you have done as Director of the FBI in terms of the initial phase of that investigation? I am talking specifically about securing documents and preventing them from being destroyed. What would you have done with respect to putting your agents into the White House, contacting officials. What would be the process?

Judge WEBSTER. First, I want you to understand that in 9 years I have never pretended to be the expert investigator.

Senator COHEN. What would your staff have done?

Judge WEBSTER. My staff, I am confident, would have made arrangements for interviews, would have made arrangements to review records, would have correlated the public statements that were out there that we're trying to relate to, either confirm or disprove in terms of factual circumstances. They would have developed a game plan before we went there, what it is we were trying to determine, what it is we would be looking for. And I suspect that probably the Attorney General did pretty much the same thing, but I don't know that.

Senator COHEN. You indicated on December 4th in an interview that you were satisfied that documents were not being destroyed, and that it would not in any way interfere with the investigation. At that time, what led you to conclude that documents were not being destroyed?

Judge WEBSTER. Is that interview around the 5th of December with a group of reporters?

Senator COHEN. The 4th.

Judge WEBSTER. 4th of December. The FBI was fully involved at that time investigating the alleged illegal activities. My senior staff officials had reported to me that they had thus far found no evidence of records being missing from the files, that there was a substantial computer record of what was there——

Senator COHEN. There were reports in the paper that documents were being destroyed during the course of that weekend.

Judge **Webster**. Well, I realize that there were reports in the paper, but I am telling you what my senior staff officials advised me. And that at least as of that date—and I was very careful in my interview on that date to say as of that date—we had not determined any evidence of record destruction. And that is still the case. I know of no new information that should have made me alter my statement.

Senator **Cohen**. You have not learned of any information since that time that would cause you to reflect upon whether or not it was a mistake not to go in and at least secure the records?

Judge **Webster**. I am having difficulty answering your question because this relates to the Independent Counsel's inquiry and that is protected by Rule 6(E) as you know.

Senator **Cohen**. Fawn Hall has been in every newspaper and publication in the country, and already admitted publicly that she destroyed documents.

Judge **Webster**. But I am not in a position to confirm that or deny that, Senator, at this point, because of the constraints of the Independent Counsel's investigation. I think the information that I had, that is, the information that the state of our investigation was accurately stated at that time. Fawn Hall was not cooperating at that time, Senator, and did not cooperate until several weeks later.

Senator **Cohen**. Well, I have a number of other questions to pursue. My time is up. Thank you very much.

Chairman **Boren**. Senator Nunn.

Senator **Nunn**. Thank you, Mr. Chairman.

Director Webster, I want to ask a few questions that are rather general in nature rather than specific. You mentioned a few minutes ago that you were ill at ease about the National Security Council that you—I don't remember the exact words, but you said that you didn't sense any illegal activity, but you were ill at ease about certain things with the National Security Council. Would you expand on that and tell us what you were ill at ease about, how that came to your attention and so forth?

Judge **Webster**. Well, I think that a lot of what I was ill at ease about is very accurately portrayed in the Tower Commission Report. There was a lot of frustration and impatience in the Executive Branch over the delay in getting the hostages out, and committees were formed which met in the National Security Council for the purpose of coming up with new and innovative ideas about how the hostages—their release could be obtained.

I guess it starts with the title of this committee, "Operations Subgroup." I kept asking Mr. Revell to be sure that this committee was not, in fact, operational, but was simply a think tank for purposes of coming up with new ideas. It has never seemed to me that the National Security Council was an appropriate vehicle for conducting operational activity. That is, was a place where ideas were marshaled and policy was developed which could go to the President for his approval, and that people in the National Security Council, staffers with various types of expertise, largely lacked the capability and the institutional experience to engage in operational matters. And that that was better handled by those to whom operational matters are properly assigned. So I had ill ease when I felt that the National Security Council had become the focal point for operational initiatives. And I expressed that to Mr. Revell and asked him to be alert for any indications that the National Security Council itself was going operational.

Senator NUNN. Who did you stress that to?

Judge WEBSTER. To Mr. Oliver Revell, Buck Revell, my Executive Assistant Director who served as a member of the Operations Subgroup as my representative.

Senator NUNN. Did he express his own concern to you about that? What was his view on it?

Judge WEBSTER. Well, I think he shared that concern and was always very alert at those meetings to caution members of the committee about the limitations of their role and responsibility, and was very careful to report to me any information that came through that committee that suggested operational activity.

Senator NUNN. Judge Webster, you have gotten involved to some extent, I suppose, in Presidential Findings. You are familiar with the Findings required by law and so forth for intelligence operations, are you not?

Judge WEBSTER. I am a lot more now than I was then. I was aware of the principle of Findings because the Attorneys General in the past have had opportunities to participate, and of course the present Attorney General sits by invitation as a member of the National Security Council. There are some aspects of the Findings that I am frankly not familiar with, and until the Findings in the Iranian arms shipments, I don't believe that I had ever seen one. Nor was I even aware—although the statute certainly makes it clear—that there was an obligation to inform the Congress in a particular way about those Findings.

Senator NUNN. Have you had a chance since all this came up to review the statute requiring Findings?

Judge WEBSTER. I have indeed.

Senator NUNN. You are familiar with that now?

Judge WEBSTER. I hope so.

Senator NUNN. We had testimony from former General Counsel Sporkin who testified before this committee that he believed that once the President signed a Finding, that previous activity which had not been part of a Finding and which could be considered, I suppose prior to that, unauthorized if not illegal, that that signing of a Finding made that previous activity legal retroactively. How do you view that?

Judge WEBSTER. Well, I have not done extensive legal research on it, and I supose that a legal argument can be made for an ex post facto Finding, but in my opinion an ex post facto Finding is contrary to the clear spirit of the statutory requirement. It is not what was intended, and it simply records the President's opinions. And I doubt very much that it would be satisfactory to this committee and it would not be satisfactory to me. It was damage control, nothing less.

Senator NUNN. How do you feel about the statute as far as a Finding being in writing or oral? Do you have an opinion on whether oral Findings are in compliance with the law?

Judge WEBSTER. Well, there again I think that probably a strong legal case can be made that an oral Finding may meet the requirements of the statute. I don't happen to think that it, again, meets the spirit of the statute. A Finding has a purpose. A Finding is to state in writing the basis for the action so that it can be reviewed and understood, and the specifics of it made available to all those who have responsibility, including the Oversight Committee. A Finding that is oral is always subject to modification at some other time.

We have in our work in the FBI a number of situations in which emergency authorizations can take place orally, by oral approval of the Attorney General, when I seek it because of a very tight timeframe. I am sure there could be situations in which there was such a time bind that it was not possible at that moment in time to execute a written Finding. But that would not excuse an immediate effort to reduce that oral Finding to writing so that the full understanding of the President, his full conclusion and desires could be made available for oversight.

Senator NUNN. I think that is very helpful.

Judge Webster, you have headed up the FBI now how many years?

Judge WEBSTER. Nine years last February.

Senator NUNN. What do you think of the statute that gives a lengthy term to the head of the FBI? Do you think that has worked fairly well?

Judge WEBSTER. The statute is a 10 year term. I have always construed it as a limitation, not as a guarantee. It has had the effect, and I think with the help of the Congress, in distancing the FBI from political activity by having a Director who serves without reference to a Presidential term. But I do serve at the pleasure of the President. Any President could ask me to leave and I would certainly do so. The 10 year term also has an advantage of a certain expectation, that if you do your job well, you will have 10 years in which to achieve substantial goals. And it tends to relieve—it certainly did in my case—any sense of urgency that I had to achieve something within a year to 2 years, and permitted me to insist that our progress be along established, acceptable guidelines, and not by any shortcut means.

Senator NUNN. Would you be willing to stay beyond this Presidential term if requested to do so by the next President? Have you precluded that in your own mind? I am not asking you to give an unequivocal yes now, but do you have in your own mind a definite time limit on how long you're willing to serve in this capacity?

Judge WEBSTER. No, I don't Senator Nunn. I have no present thoughts on it, and I must be entirely honest with you; I have no thoughts at all about it. I do—the one thought that I have is that I would like to see, if it is at all possible, the Director of Central Intelligence be seen, be perceived in the position that I now think the Director of the FBI is seen, as not a political figure.

Senator NUNN. Well, that was my next question. Is there some value to making the CIA Director as removed from the political atmosphere as possible?

Judge WEBSTER. I think so; absolutely.

Senator NUNN. You do see an anology between the FBI head and the CIA head in that respect?

Judge WEBSTER. I do, and I think the American people want the CIA to perform in that way.

Senator **Nunn**. Judge Webster, there has been, of course, speculation floating around this town for many, many years about the relationship between the FBI and the CIA. How would you describe that relationship now, and is there anything you think you can do to improve it in your new position, in which I think you will be confirmed and which I plan to support.

Judge **Webster**. Senator Nunn, we have a very—we being the FBI—have a very cordial relationship with the Central Intelligence Agency. We share information. We hand off assets to each other. We make some joint assessments. We coordinate our work with each other, having in mind there is a line of responsibility which is clearly the FBI's and a line on the other side of which is clearly the CIA. When I first came into office in 1978, the then Director of Central Intelligence was Admiral Stansfield Turner. We had been classmates in college and friends for over 40 years. And the first thing that we decided to do was to demonstrate by our own relationship to each other, that we wanted the 2 agencies to work together. It was not something that met massive resistance. It was something that I believe that the executives on both sides of the aisle had wanted to see happen but weren't all that sure would be well received by their respective directors.

When Director Casey came on board we continued that same warm relationship. And I can say the same about Acting Director Gates. There may well be areas within the two organizations that could do a better job of liaison, and I think that both sides can work towards that. But it represents no mutual distrust, no sense of rivalry. Simply a matter of making the bureaucracies work better together.

Senator **Nunn**. Mr. Chairman, I think my time has expired. I would say I have had a lot of dealings with Judge Webster over the years, particularly in the Permanent Subcommitee on Investigations. I have always found him to be not only skillful and energetic, but also a man of great integrity. I think his nomination at this critical juncture is hopefully going to be well received by the United States Senate and the American people. I think it is a good appointment, and of course, I will listen to the answers of all questions and reserve final judgment, but I do think he is the kind of individual and has the kind of sensitivity that we need in a very, very important and sensitive job.

Chairman **Boren**. Thank you very much, Senator Nunn. Senator Roth.

Senator **Roth**. Thank you very much, Mr. Chairman.

Judge Webster, last year the Congress directed the President to make a report on the spy activities of the Soviet Bloc so that Congress could determine whether it is in our interest to apply further travel restrictions to Bloc personnel, basically equivalent to those we already have on the Soviets. We have that report, and I think it bears the mark of heavy FBI input. Based on that report and my continuing concern about Soviet use of East European agents to collect sensitive material or for their own purposes, I am introducing last year's bill to apply such restrictions. Could you give us your views on this legislation?

Judge **Webster**. Senator Roth, I have not seen the draft legislation sufficiently to comment on it specifically, but I know its purpose and intent, and certainly support it. The expulsions of numerous Soviet spies as a result of Presidential action a few months ago will undoubtedly increase the tasking responsibilities of Soviet Bloc hostile intelligence officers operating in this country. I see no reason why they should not be included within the same restrictions that apply to the Soviets.

Senator ROTH. To go along, I reintroduced today, along with Senator Dole, the death penalty legislation. It amends Title 18 of the U.S. Code, which would allow such a penalty for certain offenses in time of war, or if the offense concerned nuclear weaponry, military spacecraft, early warning systems, warplanes or other major intelligence capabilities. As an experienced jurist, as well as the head of FBI, I wonder if you would give us your views on the usefulness of such legislation, recognizing of course that it is very controversial in nature.

Judge WEBSTER. Senator Roth, I have given testimony from time to time and before other committees on my views on the death penalty generally, and in that testimony, in various ways, I have always said that I thought there was a place for the death penalty in our system. And when pressed for examples of that, of course I used the example of the prisoner in prison serving a life term for whom there is no additional punishment to be given when he kills a guard. And then I think in most cases I have used another example. To me, the saddest word in the English language is betrayal, and the foulest word is traitor. If we cannot apply the ultimate punishment to one who is engaged in the kinds of activities that you have described, I do not think we have a sufficient national sensitivity to the enormous damage being done to us as citizens and as a country. So I would support it.

Senator ROTH. Well, I very strongly agree with you and appreciate your frank comment.

Very recently, Mr. Chairman, the Secretary General of the UN has authorized the creation of a new office—my understanding is, it is Soviet inspired—in the UN Secretariat. And this new office, heavily staffed by Soviet intelligence personnel, we fear will effectively create a Soviet controlled UN intelligence collection and propaganda agency at the UN. Theoretically the idea is that it would secure information on the domestic situation in each of the member states. But Senators Boren and Cohen joined me in writing to the Secretary General, noting our concern and saying that it was our intention to remove any funding by the Congress. My proposed legislation would do that. I wonder, would the collection of internal domestic information on domestic politics and other internal situations give you concern from the standpoint of intelligence?

Judge WEBSTER. Well, if I understand the proposal, and I think that I do, it would give me the concern that it provides unique opportunity for the KGB to engage in manipulative activity at our expense. I think we should be very careful about it.

Senator ROTH. My final question in this area, Judge Webster, involves the President's comments yesterday about the unacceptable Soviet penetration of our new embassy complex in Moscow, while they sit atop Mount Alto here in Washington intercepting our government communications. Again, Senator Dole and I introduced a bill requiring the Secretary of State to negotiate a new proposal on these embassies, and we would provide that if they don't negotiate such an agreement that is acceptable within 6 months, we would take a number of actions. Let me ask you this: Do you believe the new U.S. Embassy in Moscow can ever be made secure without bulldozing it and starting afresh, based on your knowledge about such matters?

Judge **Webster**. Senator, I want to be as open and candid as I can in an open session, but that is necessarily limiting to me. I think I can answer your question at least to your satisfaction. I think the focus has to include, at least, how and by whom our embassy is to be repaired or replaced. As long as we are dependent upon Soviet workers to do any of that work, it will not succeed.

Senator **Roth**. Let me ask you one final question this round because my time is up. Considering the cost of securing our government communications in the Washington area from intercept by the Soviet Mount Alto site, do you think it would be desirable for us to require the Soviets to move to some other site in the city? At least, say, comparable to our location in Moscow?

Judge **Webster**. Well, I suppose that that kind of an initiative would be wrapped up in our negotiations with respect to our embassy in the swamps in Moscow. I am not in a position to say in an open meeting, nor am I confident that I have the exact technical awareness, to say how much damage they are doing. But they are currently in a position in their present location to capture enormous amounts of microwave transmissions. And in this city, we seem to be tremendously careless about what we say on our telephones. And we have had a lot of experience with that.

If we moved them, I can't say that would end their collection efforts. It might make it more difficult. I don't know whether that is enough of a reason, but there are a lot of other reasons why we have to settle this problem with the Soviets.

Senator **Roth**. Thank you, Judge Webster.

Chairman **Boren**. Thank you very much, Senator Roth. Senator Hollings.

STATEMENT OF HON. ERNEST F. HOLLINGS, A U.S. SENATOR FROM THE STATE OF SOUTH CAROLINA

Senator **Hollings**. Thank you, Mr. Chairman.

Judge Webster, with respect to the present security breaches at the Moscow Embassy, we know they are investigating the Marines. But this seems in some sense—the Marines are culpable, obviously, to me—to be an avoidance of responsibility. We hear you've got to put older people there, or married people. But Jim Bakker was married, too. [General laughter.]

And they avoid fixing responsibility. We can't find anybody responsible for the *Challenger* disaster, the Marine barracks—I can go right on down. Even now, with Irangate, the process is flawed.

I am going to ask about your responsibility as Director of the Federal Bureau of Investigation and Title 18 USC 194(E)(1), which states that wherever someone entrusted with the possession of classified material—I am paraphrasing it—through gross negligence allows it to be lost, stolen, destroyed, they shall be fined not more than $10,000 or imprisoned more than 10 years. To me there is gross negligence involved in the Moscow embassy fracas. I talk as the Chairman of the Subcommittee on State, Justice, Commerce. We have already had a hearing with Secretary of State Shultz. It was a closed hearing, but I can at least say this. There is gross negligence there. The Regional Security Officer and the Ambassador are the ones in charge and the ones responsible.

Now, what are we doing about that? I know we're giving Marines polygraph tests, but we've also been promoting the RSO and congratulating the Ambassador. I think if you really want to get security at the embassies around this world, you nail an ambassador and a Regional Security Officer, and you won't have to worry anymore about the Marines and whether they are married or old or neuter or what.

So let's get responsibility and accountability. Through gross negligence, we had a time sharing plan out there with the Soviets in Moscow. [General laughter.]

That is gross negligence. And what are we doing about it? Are you giving a polygraph to the RSO?

Judge **Webster**. We have not been asked to do that yet, Senator.

Senator **Hollings**. Yeah, but you're the head of the FBI. Who is going to ask you? You don't think the State Department is going to ask you. They're promoting people, the Ambassador and otherwise. I want to nail the responsible individuals. If you nail them, that will be better than buying all new buildings in the Inman Report for $4 billion. If you fix responsibility, you'll change that attitude that persisted in this particular embassy.

Judge **Webster**. I certainly agree with you, Senator, that it appears to be a long standing attitude in the Moscow Embassy, and one that deserves a very thorough review and change. We have in our other responsibilities been calling attention for at least 2 years to some of the vulnerabilities there. So far as criminal investigations are concerned, I simply have no answer for you. I will undertake to discuss this with the Department of Justice to see whether or not there is FBI jurisdiction for activities taking place abroad in this way.

Senator **Hollings**. I would appreciate it, because what we're doing is concentrating on the Marines, and that is fine; we call them in from all around the world and investigate. But we are avoiding the responsible individual. We are promoting him, and act like there is no responsibility. The process is flawed. I am tired of hearing that in this town. And if you nail a Regional Security Officer and an ambassador, who's really in charge, all ambassadors will wake up, and it won't cost us an extra cent. We won't have to build any more of these turrets that they're building, and pillboxes all around.

Let me ask another question quickly, because we're voting upstairs on the Budget Committee. Please, Judge, take cognizance of the House report on the counterintelligence and security with respect to the CIA. They made a very thorough study, and I have the report here and we'll file it for you. But I take pride in the Central Intelligence Agency. I investigated it for the Hoover Commisssion back in 1954 and 1955, when we had Allen Dulles, General Cabel and the others there. But now it seems to have fallen down on discipline. And the selecting of personnel is a key threat they list down here. The same old troubles that we found years ago with respect to ensuring that one particular agency informs the other of various security breaches. And of course you know the handling of the Yurchenko case. That was a disgrace. Nobody was responsible. I bet you they didn't discipline a top fellow at CIA for letting that fellow wander out of the Washington restaurant down the street back to the Soviet Embassy. I bet you if they had nailed the top fellow in charge of that particular program, that would never happen again. But they didn't. Nobody is responsible.

We've got the Howard Case. Now did he skip surveillance. You folks, the FBI, had him under surveillance, and he's in Moscow. What about that one? We've got to get that one. Larry Chin and others are just part of a general breakdown. Maybe it is because of our good friend Mr. Casey's health or otherwise, but you've got a lot of work to do, taking over this particular agency, to bolster it. And I am confident you are the right man to do it. I support you. But look at that House report and go over that very thoroughly for me, please.

Judge WEBSTER. I will, indeed.

Senator HOLLINGS. Thank you a lot, Mr. Chairman.

Chairman BOREN. Thank you, Senator Hollings.

Senator Hatch.

Senator HATCH. Judge Webster, you've had some criticism for the time delay with regard to your first meeting with Attorney General Meese with regard to the Iran problem. Would you tell the committee and the public at large how these investigations are really initiated and what really happened there.

Judge WEBSTER. Are you referring, Senator Hatch, to my meeting on November 21st?

Senator HATCH. Yes. I am referring to the 10 day delay that occurred.

Judge WEBSTER. You're referring to the Southern Air Freight matter?

Senator HATCH. That, plus the alleged criticism that you failed to follow up when you knew there was a problem here. Let's start with Southern Air Transport.

Judge WEBSTER. All right. Your question has to do with the Attorney General's request through his Associate Attorney General, Stephen Trott, that we suspend for 10 days any unnecessary investigation of Southern Air Freight.

Senator HATCH. That was on October 30th.

Judge WEBSTER. On October 30th.

Senator HATCH. Right.

Judge WEBSTER. I received a telephone call from Mr. Trott relaying a message from the Attorney General. He wanted to know if it would be possible for us to suspend any unnecessary investigation—and those were his words—for about 10 days pending some sensitive hostage negotiations; that he did not want to interfere with the investigation, but he wanted to create, if possible, a good climate in which those negotiations could take place.

It is not unusual for the FBI itself to coordinate investigations that overlap each other where one investigation might get in the way of another investigation or available resources. I do what I normally would do. This was unusual in the sense that I do not normally get that kind of a request from the Attorney General, but I called Assistant Director Floyd Clarke, who is in charge of our criminal investigative division, told him of the request, asked him about the status of our preliminary inquiry about Southern Air, and asked him whether the Attorney General's request would present any problems to us. Mr. Clarke told me it would present no problems at all. We were barely into this investigation; that there was not much to do; that we had one more interview, second interview with an informant that would complete this relatively short inquiry; and he had no problems with accommodating this request.

I made that request a matter of record, and in that formal memorandum of my conversation, I instructed Mr. Clarke to inform me immediately if at any time that request became a problem for him in the investigation.

On—without an exact date, I have it—but about 10 days later they informed me, as they always do that the 10 days were up and would it be all right to go ahead with the investigations. And I said yes, indeed, 10 days are 10 days, and I called for Mr. Trott. Mr. Trott returned my call the next day. I asked if there were any problems in our going forward. Mr. Trott, on October 12th said he wasn't certain, he woud get back and let us know. On October 20th, Mr. Trott advised Mr. Revell, our Executive Assistant Director, that it was okay to proceed, and the bureaucratic process started in the Bureau to draft a Teletype to the field with those instructions. It took us longer than I was aware of, over a weekend and 4 or 5 or 6 days to get the teletype out, but I think that was indicative of the fact that a lot was going on at the time and that this investigation was never considered at that time to be one of major overriding importance.

But that is the process by which the Attorney General made the request, the process which I honored.

Senator HATCH. As I understand it, the Attorney General did not ask you to suspend urgent investigations; only non-urgent investigations.

Judge WEBSTER. Absolutely not. And that is included in my memorandum.

Senator HATCH. Right. I also noticed that in a memorandum, Subject: Investigation of Southern Air Transport, dated November 12th, 1986, from John L. Martin, Chief of the Internal Security Section of the Criminal Division, to William F. Weld, Assistant Attorney General, he attaches your memorandum dated October 31st, to Assistant Director Floyd Clarke of the Bureau's Criminal Investigative Division. The memo mentions that this matter involves Eugene Hasenfus. This memorandum is dated November 12th and said, "The Bureau is anxious to resume its investigation, but even though the 10 day period requested by Steve Trott has expired, it is unwilling to do so without the Department's approval. Unless you advise to the contrary, I intend to advise the Bureau that it is free to resume its investigation without further delay." And so that is another memorandum——

Judge WEBSTER. This is being handled at the level of the operational level between the Bureau people in charge of that program and Mr. Martin in the Department. So it was a dual contact with the Department on getting it going.

Senator **Hatch**. As I understand it, the first time you had any idea that there might have been a diversion of funds to the Contras from the Iranian arms sales was when Mr. Meese gave his press conference on November 25th, I believe it was.

Judge **Webster**. That is correct, Senator Hatch.

Senator **Hatch**. So you had no tip-off before that time.

Judge **Webster**. None.

Senator **Hatch**. Okay. That is all I want to ask at this time, Mr. Chairman.

Senator **Cohen**. Senator Bradley.

Senator **Bradley**. Thank you, very much, Mr. Chairman. I see we have a vote on. I assume we just proceed until the five bells.

Mr. Webster, I have been on the Intelligence Committee for about 2½ years now. The last Congress was referred to in some circles as the Congress of the Spy. We have had already today made mention of Howard and Whitworth and Walker and Pollard and Chin, etc. And one of the things that has struck me is how many Americans have actually sold information for money. I imagine an American citizen who enjoys the freedom of our country betraying it for money. When things get tight at home or you think you want to get rich quick, just sell some information—doesn't matter if it endangers the national security of your country.

And the thing that occurs to me and I think it occurs to a lot of people, is what would cause somebody to commit such an act and what can be done about it. We have heard today from various Senators who have talked about actions Congress can take and when that happens you always hear about extended use of polygraphs, tougher punishment, death penalty, etc., and then you usually hear Congress saying, "well, we need to revise procedures," and when the procedures are revised then we will have taken care of the problem.

But it occurs to me that those are not sufficient answers to what we have witnessed in the last couple of years. To me, the answer is probably more basic, more painful, more demanding, and maybe even more idealistic. And as someone who has had a remarkable record in 10 years at an institution such as the FBI, I wonder if you have given any thought to the larger question about what is it that causes people to sell information for money, to betray their country for money.

Judge **Webster**. Senator Bradley, I think we have all thought about this, because you are absolutely right. In my entire time in the FBI I cannot think of any American citizen who was found and convicted of selling out to hostile intelligence services who did not accept money, with one exception. And that was an Air Force employee who gave away secrets because he was angry at the Air Force. But he did not have any ideological convictions that caused him to betray his country.

There is, in a sense, a rough, very rough analogy to the problems we face in our number one crime problem, drugs. We can do all the things in law enforcement and in legislation to make conduct illegal, but as long as there is demand for drugs, drugs will continue to come. And that is an educational process.

The number of people we have found who have betrayed their country—and I am focusing on those who walked in, not those who were undone by various skilled recruiting devices of the Soviets—is a relatively small number of people to the total numbers of people in this country who love the country, who honor its freedoms and would do nothing intentionally to betray it. So whatever I might say to you in answer to your question is not an indictment of the American people in whom I have tremendous confidence.

But I think where we do find these incidents and we track them back, we might—and I am only speculating—we might find in their education the absence of values. The concept of value neutral that I am hearing these days in the teaching profession is of concern to me. It seems to me that we have some traditions and loyalties that need to be fostered. When I was a child in school, history was very important to me. I don't think that we're teaching history in the way that we used to teach it. When I was a child in school, Nathan Hale was a hero and Benedict Arnold was a traitor, and the distinction was very, very clear. I am not sure that in today's world that there is not some numbness about national secrets and the damage that the selling of those national secrets can mean to us as a society, as a country, and to us as individuals.

I think that everything I have said probably applies to those individuals who were found and convicted. I wouldn't want it to be any kind of indictment of our people as a whole. But we need some shoring up and we need to be sure that the importance of the work that individuals have who come into possession of our national secrets needs to be made as clear to them, the worthiness of their work, the trust that is represented by our allowing them to have these secrets should weigh in their conscience and in their minds before they knowingly sell out all that is so important to us.

I am not a psychologist. I am not a teacher, but I do believe that an awareness of our history and our traditions, a sense of worthiness of work, and the importance of preserving trust can be infused better than we seem to be doing it today with those people to whom much is entrusted. But I am glad that we only have a handful of these to deal with. I think the vast numbers of the people in the Central Intelligence Agency, the FBI, the NSA, the DIA and all the other places fully realize the importance of the responsibilities that have been given to them.

But it is something that I am glad to hear you ask, and I hope others along the way will ask and find ways to build and reinforce that sense of responsibility and trust that is so important in our society.

Senator **Bradley**. Thank you very much, Mr. Director. I guess I have to go vote. Let me just say that I appreciate your statement and I take it to be a kind of resonance to something de Tocqueville once said when he said in America the spirit of liberty and the spirit of religion are in fundamental agreement.

Senator **Cohen**. The committee is going to stand in recess for 5 minutes. Senator Boren will return.

[A brief recess was taken from 12:05 to 12:14 p.m.]

Chairman **Boren**. We will resume the hearing at this point, and I will recognize Senator Specter. I believe that Senator Bradley had a small amount of time remaining to him when he had to leave to go to vote, and if when he comes back he has one last question to ask, we'll recognize him after Senator Specter has completed his round of questioning. Senator Specter, you are recognized.

Senator SPECTER. Thank you, Mr. Chairman.

Judge Webster, when you started your testimony this morning you had commented about a memorandum dated October 30th relating to certain information which had been withheld from the National Security Council. Would you care to amplify the circumstances surrounding your adding that to your testimony before you began your prepared statement this morning.

Judge WEBSTER. I think that the facts are that the information was reported to the Senate staff, and the Chairman and possibly the Vice Chairman asked for an explanation which was provided to them last night by members of my staff who had coordinated all of the records that might bear on this subject. And I concluded that I should add it even though I did not believe that the question, in letter or spirit, required it, but in order that you might have a full record.

Senator SPECTER. Well, the committee's questionnaire had the question as to your knowledge of any possible illegal activities of U.S. officials in aid of the Contras. And as you have noted, you had not put that on your response. As I understand the facts, there was a memorandum provided by Independent Counsel to the Intelligence Committee which contained your initials and where the FBI had decided not to make certain information available to the National Security Council——

Judge WEBSTER. To Lieutenant North.

Senator SPECTER. Well, it was to the National Security Council, because Lieutenant Colonel North might have access to it in the context that there was a possible criminal prosecution which might be brought or the appointment of Independent Counsel to investigate Lieutenant Colonel North's activities with respect to the Contras. Is that essentially the situation?

Judge WEBSTER. Senator, have you had a chance to read my statement?

Senator SPECTER. I heard and made notes of the statement that you gave this morning, Judge Webster.

Judge WEBSTER. I am not sure I understand your question. I would like to answer it carefully.

Senator SPECTER. Well, my first question is that the addendum which you added this morning was due to the fact that Independent Counsel advised the Intelligence Committee yesterday of a memorandum dated October 30th which was initialed by you where the FBI had decided not to make certain information available because of concern that it might come to the attention of Lieutenant Colonel North who might be the subject of an investigation by an Independent Counsel.

Judge WEBSTER. Well, that is substantially correct. The document said that the Department official had recommended that Lieutenant North not be informed about the information contained in the memorandum.

Senator SPECTER. According to the information I have, the Counsel for the Intelligence Policy of the FBI was concerned in somewhat direct language about Colonel North potentially being in trouble, Colonel North potentially being flaky, and concerned that the information which the FBI had acquired not be made available to Lieutenant Colonel North because he might be the subject of an investigation where Independent Counsel might be involved. Is that correct?

Judge **Webster**. The memorandum contained a note from an FBI employee saying that with respect to that information, the Departmental official had recommended that it not be given to Lieutenant Colonel North because he might become the subject of an Independent Counsel—I want to correct that—that he might be involved in an Independent Counsel probe and besides, it was redundant because that information was already available in the media.

Senator **Specter**. And the recommendation by the FBI official that Lieutenant Colonel North not have access to this information because he might be involved in a probe initiated by Independent Counsel, that recommendation was approved by you and initialed by you on a memorandum.

Judge **Webster**. This was not a recommendation—coming to me in a recommendation form. This was an information note, the kind that I get dozens of a day, that simply put on there that it had recommended. I did not participate. I did not sign an approval. My initials are just scribbled on the botton of the page. It was for my information.

Senator **Specter**. Well, your initials, though, were scribbled, as you point out, on the bottom of the page, indicating your agreement with the recommendation not to make the information available to Lieutenant Colonel North.

Judge **Webster**. It really didn't indicate anything other than I had read the memorandum, because I was not the one making that decision. It was not sent to me for approval; it was sent to me for information.

Senator **Specter**. Judge Webster, the issue becomes somewhat important in the context of the fact that that memo was simply one day before you wrote this memorandum to Mr. Clarke which you have already testified about, requesting that there be a delay in the investigation of Southern Air Transport. This memorandum asks to suspend the investigation of any non-urgent work that could—and you used the word—wreck the investigation. Did you see any connection between the information which had come to the FBI concerning the Contras and concerning Hasenfus and the request which you made the very next day to delay this investigation.

Judge **Webster**. Let me make a couple of observations to answer as candidly and completely as I can. First, I have no independent recollection of that memorandum at all, other than that my initials appear on it. It was typical of the kind that came in large batches of an informational variety in which I was not being asked to act, but simply being informed.

Senator **Specter**. Well, you say you have no independent recollection of it when you filled out the Intelligence Committee questionnaire. But how about——

Judge **Webster**. That's right. And it was certainly not on my mind at the time that the Attorney General called through his Associate Attorney General. I do not even know, Senator, that I read that particular piece—had read it by the time that I had that conversation with him. Often those informational notes are taken home. Sometimes that may be a day or two if I am in travel. These are not action things; they are informational things. So I can't explain it. I had no recollection of it. I certainly know that I did not have it in my mind at the time that Mr. Trott called to inquire whether I would have any problem.

Further, I have consulted with Mr. Clarke who is the Assistant Director in charge of the Criminal Investigative Division who is the one I consulted to determine whether there would be any problem in suspending it, and he has no recollection of that memorandum, although he also saw it on an informational basis. I am trying to suggest that that information was acted on at a very low level.

And as I emphasized in my statement—and then I will take your next question—but as I emphasized in my statement there is nothing in the memoranda, that is, that contains the information that the Justice Department official proposed not be given to Mr. North, Colonel North, there is nothing in that memorandum that refers to Lieutenant Colonel North or to any other United States government official or in any way suggests that any United States government official was involved in illegal activity in Central America. And, therefore, I did not believe and I do not believe now that it was called for as an answer to your question. But I wanted to put it in because you had raised it.

Senator SPECTER. Well, I can understand your point that you may not have remembered it when you filled out the Intelligence Committee questionnaire. But here we have 2 events, one on October 30th and one on October 31st, and it seems to me that it is not so inconsequential that confidential information comes to the FBI which the FBI decides not to transmit to a circle where it may come to the attention of Lieutenant Colonel North, and that even as you characterize your scribbling notes, that it is a fairly significant matter on your making a notation of any sort in agreement apparently not to have the disclosure to Lieutenant Colonel North. This is especially so in the context wherein the very next day you send a memorandum requesting a delay of 10 days in the investigation relating to Southern Air Transport.

Judge WEBSTER. Senator Specter, it was the same day, if you want to be precise. I wrote the memorandum the next day.

Senator SPECTER. OK, the same day.

Judge WEBSTER. But I have already told you, I don't even know whether I read that memorandum on the same day. This is reading material, the kind of stuff that went home with me.

Senator SPECTER. Well, now, wait a——

Judge WEBSTER. And I don't remember it at all.

Senator SPECTER. Well, Judge Webster, are you saying you scribbled your initials on a piece of paper that you don't even know if you read?

Judge WEBSTER. No, I didn't say that. I said I don't know—I don't know when I read it. By putting my initials on it, I meant I had read it.

Senator SPECTER. Are you saying that you may have read it after October 31st?

Judge WEBSTER. Yes, I may have.

Senator **Specter**. Well, if you read it after October 31st, didn't you make any connection between some information that the FBI had decided not to make available to Lieutenant Colonel North and——

Judge **Webster**. I did not make the——

Senator **Specter** [continuing]. And a request to have a suspension for 10 days of an investigation relating to Southern Air Transport which involved the same locale and perhaps overlapping areas.

Judge **Webster**. I did not, Senator, and if you look at the—well, you don't have—I assume that you've had access to the memorandum. It has apparently been provided to you. The memorandum doesn't talk about Lieutenant Colonel North.

Senator **Specter**. The memorandum has not been provided to us, Judge Webster. I have a memorandum of the staffer who read the memorandum, and I think we ought to have the memorandum, and I intend, speaking for myself, to make an effort to get it.

Judge **Webster**. You understand, Senator, that memorandum is in the possession of the Independent Counsel and was provided by the FBI.

Senator **Specter**. Let me ask you one more question. We have a vote on and perhaps I can come back to this in a later round. You have testified that you had no reason to suspect that there was a criminal investigation or a potentially criminal investigation when you had the conversation with Attorney General Meese on November 21st. You have testified that the issue of the Iranian arms sale came to your attention, I believe you said, in the summer of—when was it, in response to Senator Cohen's question, that you said you had some information about——

Judge **Webster**. As nearly as we can determine by tracking it back to a Criminal Investigative Division briefing, it was on October 5, 1986.

Senator **Specter**. Well, Judge Webster, you have had a number of indications which surround the issue. Some information comes to your attention on October 5, 1986, which you consider to be of sufficient importance to call to the attention of the Attorney General to see if he knows about it and to see if there has been a Finding. Shortly before that time there is information which comes to the FBI that you decide ought not to be made available to Lieutenant Colonel North. At about the same time there is a request which comes to you, and it is obviously an important matter because you put it in this memorandum. And then on November 21st you have a conversation with the Attorney General about the Iranian arms sale and there must have been some question about compliance with the Export Administration Act or the Arms Export Control Act. Why in that context, given your experience, was there no red light flashed that perhaps there ought to be some greater concern about an appropriate role for the FBI.

Judge **Webster**. It was a judgment call, Senator. I did not see it. You can fault me for not seeing it, but I didn't see it. And I certainly didn't remember that piece of paper that you're talking about or have it in my mind.

Senator **Specter**. Had Mr. Meese told you that the issue did involve the sale of arms to Iran when you talked to him on November 21st?

Judge **Webster**. The conversation was relatively brief. I was the one who told him what I had been informed, and he confirmed that yes, he was aware of that, and that yes, he had seen the Finding or a draft of it and had given his approval to it.

Senator **Specter**. Well, that is the October 5, 1986 conversation between you and Mr. Meese, where you——

Judge **Webster**. No, I think that would be shortly after August. August 5th was the——

Senator **Specter**. About August 5th.

Judge **Webster**. Well, it would have been within a few days. It might have been that same day or a few days after that.

Senator **Specter**. Well, all right. You have this conversation with him on August 5th. Leave out the business as to keeping information from Lieutenant Colonel North and the Southern Air Transport matters which occur on October 30th and 31st or thereabouts, and just pick up the August 5th conversation with Mr. Meese about the sale of arms to Iran. Also, pick up on your concern about whether arms are being sold to a state which sponsors terrorism, and on the information of November 21st where you have a conversation with Mr. Meese about his inquiries relating to the Iranian arms sale. Wasn't there some concern on your part about possible violation of the Export Administration Act or the Arms Control Export Act, that there may be some criminal overtone to this matter.

Judge **Webster**. Well, I can tell you that there was not. Most of those acts relate to Customs, and the Attorney General was not—we were not thinking in terms of or speaking in terms of looking for what kinds of laws had been violated, but looking for what had actually happened—trying to get the facts straight.

Senator **Specter**. But, there was the sale of arms to Iran and the Export Administration Act bars the export of goods and commodities to any nation which the Secretary of State has determined supports international Communism. And Secretary Shultz had made that determination. And the Arms Export Control Act regulates transfers of arms generally and specifically bars items on the munitions list to any nation which the President determines supports international terrorism.

Judge **Webster**. Well, I could raise the question of whether a Presidential Finding would have superseded any Finding by the Secretary of State, but there's really no point in that because we were not thinking about the Export/Import Arms Control Act which is not normally an area in which the FBI is active.

Senator **Specter**. Thank you, Judge Webster. My time has expired. I'll come back to it the next round.

Chairman **Boren**. Thank you very much, Senator Specter. Senator Bradley has returned, and he has 3 minutes remaining on his time for questioning, and then we will continue with questions by Senator DeConcini. So, the Chair will go over to the floor to vote. And, so, Senator DeConcini if you would take up the questioning just as soon as Senator Bradley completes his line of questioning, by then I should be back.

Senator BRADLEY. Mr. Chairman, do I understand that we will have Mr. Webster for a closed hearing?

Chairman BOREN. If there are any classified questions that need to be asked, we will. We had planned to come back in open session this afternoon at 2 o'clock. There are many more questions that members have indicated to me they wish to address in the open session. If members do have matters dealing with classified information or questions about which you'd like a ruling as to whether or not they deal with classified information, if you would inform the Chair. Then we will decide either later this afternoon or tomorrow about a closed session. But, we'll resume an open session at 2 o'clock. We'll complete your questions and then Senator DeConcini's and see if there are others that wish to ask questions before we break. We'll break no later than about 10 minutes to 1.

Senator BRADLEY. Thank you very much, Mr. Chairman. Mr. Webster, I'd like to move to another area. I appreciate your response to the last one, and I really hope that people read your response because I think it was an important response given our current environment.

One of the challenges that you will face is how to take the CIA to a new level of public acceptability and responsibility. In this connection, how you conduct yourself in the position as the head of the whole Central Intelligence apparatus is very important. To the extent that you are almost above politics, as you have been, that is also very important. That leads me to a question relating to the criteria that you would apply to your public speeches and your writings. The question has arisen in the immediate past as to whether the Director didn't actually become a part of the policy advocacy process; didn't actually take a very direct and even quasi-partisan position on issues before the Congress. And I wonder if you could share with us the criteria you would have for determining what you would speak out on and what you would write about.

Judge WEBSTER. I think, Senator Bradley, that first of all I would probably proceed pretty much as I have done during the past nine years in the FBI, and that is wherever possible and appropriate to take advantage of opportunities to explain to the American people the role of Central Intelligence, the need for it, how intelligence is gathered in general terms, and, at least in those areas that can be publicly discussed, made as clear as possible. I have great confidence in the American people to support something that makes sense and something that they know is necessary. From time to time over the last 9 years it has been necessary for me to publicly explain, and often defend, techniques, operations, events that are understandably confusing to the public. And, I presume I would be prepared to do that. I do not believe that I would be asked to, nor would I want to engage, in any advocacy of political policy. I've tried to stay as far away from that as I can in order not to create the perception that I am—that either I am politically motivated or that the quality of intelligence upon which our policymakers are expected to act is influenced by political or personal bias. I am concerned that on some campuses we are beginning to see signs that the CIA may not be as welcome as we would like it to be. And that concerns me because of the enormous pool of tremendously talented scholars and thinkers and analysts that we have to draw on in order to produce the quality analysis that makes the CIA the premier intelligence agency in the world. And, unless we continue to have support and understanding on our campuses and in other places of education and advanced knowledge, we are not going to have that kind of person to continue to work in the CIA. So I need to be out talking to those people. If your question was directed, would I be a partisan advocate for particular causes, the answer is no. If someone were to ask me while I was making a speech what is behind a particular policy and I understand it, I think I would try to answer the question in the same way that I answer similar questions in the FBI. What was the reason for the President's decision to punish Libya for the LaBelle discotheque?

I think that needs to be explained. But I think I must be always careful to do it in ways that would not suggest that the intelligence is——

Senator BRADLEY. Let's say that——

Senator COHEN. The Senator's time has expired. There are two others waiting. Do you want to yield?

Senator DECONCINI. Not necessarily. But I think it's a unanimous consent to let him finish that question. I thought he was in the middle of something.

Senator BRADLEY. If I could just—very quickly. Let's assume you got a call from the White House, and there was a big vote coming up in Congress, and then sometime in the next 3 weeks it would be very helpful for the head of Central Intelligence to make a statement that could be used in the overall effort to achieve that policy objective.

Judge WEBSTER. I'd view that with a lot of suspicion. I've had requests from time to time to state views on such things as the Foreign Intelligence Surveillance Act, and I think that in the sense that it effects anything—any legislation that effects the CIA—I would be entitled to make a statement. But just simply to roll drum beats to make room for high level speeches is not the role of the Director of Central Intelligence.

Senator BRADLEY. Thank you. And thank you, Mr. Chairman.

Senator COHEN. Senator DeConcini.

Senator DECONCINI. Mr. Chairman, thank you very much.

Judge Webster, I want to go back in time because I've never quite understood the problem in the Donovan confirmation and the FBI's involvement in that hearing. At the time of that confirmation hearing for the Secretary of Labor, before the Senate Committee on Labor and Human Resources, the FBI told the committee that its investigation of Mr. Donovan had been "thorough and complete." Those are quotes. And, "had surfaced no information which would reflect unfavorable upon Mr. Donovan." Yet, according to a teletype sent from the New York field office to the FBI Headquarters, dated January 10, 1981, with which I presume you're familiar.

The Tumcon cases Masselli tapes revealed conversations in which schemes to defraud the New York Transit Authority, through the use of a phony minority business enterprise, JOPEL Construction Company, and other misdeeds of overcharging and what have you, were discussed by William Masselli and the executives at Shiavone Construction Company. Mr. Donovan and his fellow Schiavone executives are now standing trial, as you know, in

New York on evidence taken from these tapes and other evidence. I want to know, Judge Webster, can you tell the committee why these serious allegations about Ray Donovan's social and business ties to organized crime and his possible involvement in fraudulent contracts were not revealed to the Senate Labor Committee during the confirmation proceedings.

Judge Webster. Senator DeConcini, there was a lot that was wrong with that investigation. And in extensive hearings chaired by Senator Hatch those facts came out fully.

Senator DeConcini. In the confirmation hearings? Excuse me?

Judge Webster. In confirmation hearings and even in separate hearings before that. The FBI executive who made that statement I really believe thought it was true at the time, but the investigation was not as thorough and complete as we would expect in any present day confirmation. It was done in a manner consistent with past Presidential nominations, but in reviewing it I have to say very candidly that the summaries that we provided the White House, which was consistent with past practice, were inadequate—inadequate to alert the President's counsel that there were serious and specific problems that he might want to address and, in fact, inform the Congress about. When we gathered up what information that we had—and we really did try in that one to reach further than we had in the other Cabinet offices. We didn't capture it all. Very substantial changes have taken place since that time and the systems—the automation systems, the rules, the practices. Even the form in which we supply information to the White House with respect to Presidential nominations has been substantially changed so that nothing we say will mislead.

Senator DeConcini. Judge Webster, when the confirmation hearings and report was sent up did you have already in your possession the January 10, 1981, teletype from the New York FBI office? Or do you know?

Judge Webster. I just don't know the answer to that, Senator.

Senator DeConcini. Could you find out for me? I'm concerned that this type of information——

Judge Webster. We'll certainly answer it promptly for the record.

Senator DeConcini. I'm concerned that this type of information, a copy of which was provided to me by the District Attorney's office, may not have been given to the Labor Committee. Do you know what happened to it? Maybe it wasn't sent to the headquarters as they say it was. But if it was sent to headquarters, how would it not wind up in the file for either your review or your chief deputy's review?

Judge Webster. I'm confident today that would not happen.

Senator DeConcini. It would not because of procedural changes?

Judge Webster. Yes.

Senator DeConcini. Did anyone from the White House, or particularly Fred Fielding, request that these allegations, or this type of information, not be sent to the committee?

Judge Webster. There was one time when there was some question about further interviews and whether further interviews were necessary, and I think Mr. Fielding said that he didn't believe that they were. And I believe that our agent working the case didn't think so either. But I know of no situation in which White House counsel intentionally withheld any information the White House counsel had. I think the problem was that we gave some of that information in such summarized form and then those working with it really believed that that information was all incorporated in some very general summaries. Now we provide all derogatory information in the form in which it is received, so there can be no doubt about what the counsel was actually told.

Senator DECONCINI. Judge Webster, my question is did the White House, particularly Fielding or anybody else, request that these particular allegations or any other allegations not be forwarded to the committee?

Judge WEBSTER. Senator DeConcini, I can recall no such request by the White House.

Senator DECONCINI. Can you also provide us—perhaps you don't have this at your fingertips—when you did learn of these allegations and the information which was not available to the committee during Mr. Donovan's confirmation process, and then how much time elapsed before you transmitted it. If that period of time was longer than a reasonable time of 30 or 60 days, why was it not transmitted?

Judge WEBSTER. I am trying to relate your question to what I knew. I did not know the substance of Mr. Mullin's testimony until later that summer when I—as I recall, I received a letter from Senator Hatch referring to the testimony, and suggesting that perhaps it was incomplete. It had to do with information that was on lengthy wiretaps, some 1500 hours of wiretaps in New Jersey. One—as I recall one, possibly two references to Mr. Donovan's company had been made on those tapes that had been reported to me before the confirmation began, with the information that those references did not refer to anything criminal, any criminal activity.

Senator DECONCINI. You mean as to the information that was referred to you.

Judge WEBSTER. That was referred to me.

Senator DECONCINI. Not as to the whole tapes.

Judge WEBSTER. No. No. The full tape was not actually transcribed until the Independent Counsel was appointed, and it took some 6 or 8 of his people several weeks to listen to those tapes, and I think that they found 5 or 6 additional references to the company and possibly even to Mr. Donovan in doing that.

That information was really not available to us in the form in which it was held. We did know that there were references in the tape to Mr. Donovan—rather, to his company, at least—and that information was not given to the Senate during his confirmation. I did not know that——

Senator DECONCINI. That it was not given.

Judge WEBSTER. That is was not given, and I did not know that it had been asked for.

Senator DECONCINI. Judge Webster, can you tell us what is the procedure that you have implemented to prevent this from happening today? If we had a nominee for another Cabinet position, what guarantees do we have that, in fact, the Director or your chief subordinate would have all the information that you know of within the Federal Bureau, and that all available information would be sent up to the appropriate committee and its Chairman and ranking member.

Judge **Webster**. I missed the first part. You say——

Senator **DeConcini**. What procedures have been implemented now so that this won't happen again and doesn't happen now. What is the change in procedures?

Judge **Webster**. We now have procedures for calling in field information and for automating the information that is available to us, both from the field and at headquarters. We have procedures for identifying derogatory information and giving it in the form in which it is received to the White House so that it is not incorporated in some sort of gross summary of the facts. I think the reviewing procedures have been tightened up, and I could supply for the record, if you wish, a list of those changes.

Senator **DeConcini**. I would like to see them—Judge—if you could provide them. My time is up.

But let me say that I think this is very candid of you and very typical of the way you operate. Indeed, it appears from the little bit that I know, and I am not on the Labor Committee, that indeed something was left out in that confirmation hearing—a very important something as to Mr. Donovan. I ended up voting against him, and I can't even remember exactly why now, but in retrospect I am very glad I did. But it might have been my concern that all the information wasn't there. Still, I can appreciate that errors happen or procedures change. I think it would be helpful to this Senator and perhaps the record, if you would supply what those changes are and what the process is now, by providing a summary position paper which could be put in the record.

Judge **Webster**. I would be happy to do that. (See p. 237.)

Senator **DeConcini**. Thank you, Judge Webster. Thank you, Mr. Chairman.

Chairman **Boren**. Thank you very much, Senator DeConcini.

Let me explain to the members of the committee the situation in which we find ourselves. We have some members of the committee who have been waiting to ask their questions who cannot return this afternoon. As I understand it, they have other conflicts. What I would like to do is give them an opportunity, Judge Webster, if we could go on maybe another 20 minutes or so this morning.

Judge **Webster**. Mr. Chairman, I am at your service, as long as you would like.

Chairman **Boren**. We will return about 2:10 after that. If I could ask my colleagues, since we've had the Judge here now for almost 3 hours, if there is any way you can constrain the length of the questions. We want to give you every opportunity and we'll have more rounds of questioning this afternoon. But we want to give you a chance, because I know some have scheduling problems.

Senator Hecht.

Senator **Hecht**. Good afternoon Judge, how are you?

Judge **Webster**. Good afternoon Senator.

Senator **Hecht**. Judge, in my particular State of Nevada, there's been a lot of question about how you have handled some FBI agents and I'm bringing this up because this is very relative to your confirmation, how you hope to handle CIA agents.

Maybe the questions I'd like to submit have been raised by newspapers, the Las Vegas Sun, with your permission I'm going to have a lot of these articles included in the record.

[The newspaper articles referred to follow:]

Thursday, March 12, 1987 LAS VEGAS SUN 7B

Jeff German

Will Hecht give Webster indigestion?

For Sen. Chic Hecht, it's going to be yet another balancing act of his loyalties to his constituents in Nevada and those to President Reagan.

Hecht, one of the strongest Reagan supporters on *Capitol Hill*, says he's bent on asking FBI Director William Webster, the president's nominee to take over the CIA, some tough questions about the covered-up, illicit activities of former Las Vegas FBI chief Joseph Yablonsky.

As a member of the Senate Intelligence Committee, which expects to hold confirmation hearings on Webster in the coming weeks, Hecht indeed could play a vital role in determining Webster's fitness to run the troubled CIA, which desperately needs to clean up its image in the wake of the Iran arms scandal.

So far, Webster has been praised as being squeaky clean and is expected to breeze through the hearings.

But if Hecht does his homework — he's already assigned a member of his intelligence staff to research the Webster-Yablonsky connection — the longtime FBI director might end up having a little more trouble than most people think.

Among those in the know, there are strong suspicions that Webster was involved in an attempt to cover up wrongdoing by Yablonsky when the controversial FBI agent headed the Las Vegas FBI office from 1980 to 1983.

Yablonsky, described by some as Webster's very own Ollie North, was accused of everything from playing "dirty tricks" in the 1982 Nevada attorney general's race to wrongly targeting former U.S. District Judge Harry Claiborne.

Through it all, Yablonsky left office merely with a slap on the wrists from Webster, and that has left a lot of unanswered questions in the minds of many Nevadans who have witnessed Yablonsky's incredible activities out here.

If Hecht should get cold feet at the upcoming Webster hearings and decide to give the CIA designate a pass, other senators on the Intelligence Committee easily could pick up the banner.

And should it be demonstrated that Webster indeed participated in the Yablonsky cover-up, then he's likely to face even more tough questioning from such notable committee members as Orrin Hatch of Utah, Dennis DeConcini of Arizona and John Warner of Virginia.

All three senators were members of the historical Claiborne impeachment panel that heard evidence before the Senate convicted and removed Claiborne from the bench last October for filing false tax returns.

During the course of those highly publicized hearings, a number of allegations of wrongdoing by Yablonsky and other federal agents were raised for the first time ever in front of a national television audience.

The allegations were so compelling that they convinced the respected Hatch to vote against impeaching Claiborne.

DeConcini was so moved that he was among a small group of senators, including Hecht, who pushed through a resolution at the end of the Senate session calling for an investigation into a reported Yablonsky-motivated vendetta against Claiborne.

Though the resolution has yet to be acted upon by the Senate this year, memories of Yablonsky still are fresh in the minds of the senators who worked on the impeachment panel.

When it comes to asking questions and getting to the truth, nobody does it better than the members of the U.S. Senate.

How big a role did Webster play in the cover-up?

That's still a mystery.

But with people like Hatch, DeConcini and Warner waiting in the wings, we just might solve that mystery in weeks ahead.

As for Hecht, the senator just might surprise some of his harshest critics on this one.

It could end up being the senator's day in the sun. He'll certainly have the facts on his side.

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Webster faces quiz about FBI 'vendetta'

MAR 26 1987

By Chris Chrystal
United Press International

WASHINGTON — A Senate Intelligence Committee member said Wednesday he will question FBI Director William Webster during confirmation hearings on his nomination to head the Central Intelligence Agency about allegations a federal judge was hounded in an FBI "vendetta" that led to his impeachment.

Sen. Chic Hecht, R-Nev., said he will ask Webster about the mission of Joseph Yablonsky, who headed the Las Vegas, Nev., FBI office from 1980-1983 while Harry Claiborne was a federal judge, and was known as the "King of Sting."

"Why did the head of the FBI send him (Yablonsky) to Nevada?" Hecht said. "Webster will be questioned on these issues. I will do it. We'll ask and find out."

Webster has been nominated to succeed William Casey, who is suffering from brain cancer, as CIA chief, but no date has been set for the confirmation hearings.

Claiborne and others, including former Sen. Paul Laxalt, R-Nev., said Yablonsky came to Nevada bent on "getting" the judge.

Laxalt, who left public office in January and is considering a presidential bid, said he also was on an FBI "hit list" promoted by Yablonsky, which he considered

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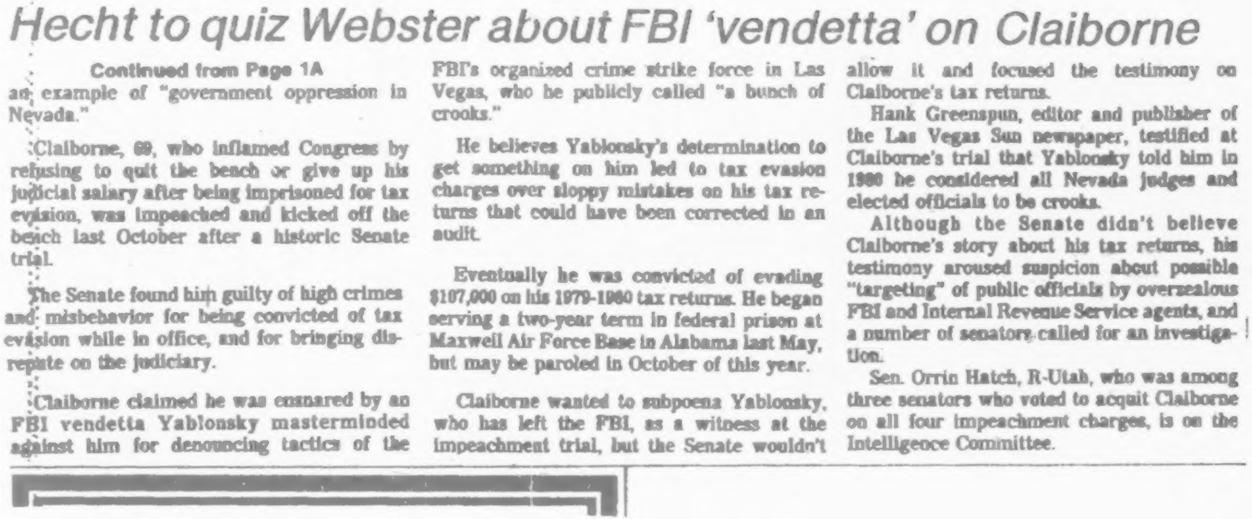

Hecht to quiz Webster about FBI 'vendetta' on Claiborne

Continued from Page 1A

an example of "government oppression in Nevada."

Claiborne, 69, who inflamed Congress by refusing to quit the bench or give up his judicial salary after being imprisoned for tax evasion, was impeached and kicked off the bench last October after a historic Senate trial.

The Senate found him guilty of high crimes and misbehavior for being convicted of tax evasion while in office, and for bringing disrepute on the judiciary.

Claiborne claimed he was ensnared by an FBI vendetta Yablonsky masterminded against him for denouncing tactics of the FBI's organized crime strike force in Las Vegas, who he publicly called "a bunch of crooks."

He believes Yablonsky's determination to get something on him led to tax evasion charges over sloppy mistakes on his tax returns that could have been corrected in an audit.

Eventually he was convicted of evading $107,000 on his 1979-1980 tax returns. He began serving a two-year term in federal prison at Maxwell Air Force Base in Alabama last May, but may be paroled in October of this year.

Claiborne wanted to subpoena Yablonsky, who has left the FBI, as a witness at the impeachment trial, but the Senate wouldn't allow it and focused the testimony on Claiborne's tax returns.

Hank Greenspun, editor and publisher of the Las Vegas Sun newspaper, testified at Claiborne's trial that Yablonsky told him in 1980 he considered all Nevada judges and elected officials to be crooks.

Although the Senate didn't believe Claiborne's story about his tax returns, his testimony aroused suspicion about possible "targeting" of public officials by overzealous FBI and Internal Revenue Service agents, and a number of senators called for an investigation.

Sen. Orrin Hatch, R-Utah, who was among three senators who voted to acquit Claiborne on all four impeachment charges, is on the Intelligence Committee.

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Senator HECHT. As you are aware, last year the Senate voted to impeach Judge Claiborne and remove him from office. At the same time, the Senate approved an investigation into the way Judge Claiborne was targeted by the FBI and the conduct of those who conducted the investigation. Are you satisfied with that investigation, headed by then FBI Las Vegas Chief Joseph Yablonsky, was conducted properly by the book?

Judge WEBSTER. Senator Hecht, I am satisfied that with respect to the investigation of Judge Claiborne, the head of our office in Las Vegas carried out his responsibilities in the manner appropriate and in a lawful manner. I guess that's your question, did he break any laws or break any rules. There were other things that occurred out there that I'm not so proud of, but in terms of the investigation, I am satisfied that there was a proper predicate to initiate the investigation. That evidence came forward that formed the basis for a Grand Jury investigation and an indictment. There was a hung jury, and the case was retried. Senator Claiborne was convicted. He has exhausted his appeals before he came before this Senate on impeachment charges. In no where in any of that did I find anything that would require a disciplinary action or administrative action of my officials out there. That investigation was under the supervision of the public integrity section of the Department of Justice. I was a participant in passing on and carefully reviewing various proposals to deal with Senator Claiborne during that investigation.

Senator WARNER. Judge Claiborne.

Judge WEBSTER. I beg your pardon. What did I say?

Senator WARNER. He was here for only a short time.

Chairman BOREN. I think you referred to him as Senator Claiborne.

Judge WEBSTER. I would withdraw and apologize for that. But I won't say that I agreed with everything that was proposed to be done, because I didn't, and I exercised my responsibility to modify various proposals. But I am not aware that the special agent in charge went beyond his authority when I gave it to him.

Senator HECHT. Why was Judge Claiborne targeted by Mr. Yablonsky?

Judge WEBSTER. I would, Senator, very respectfully disagree with the term targeting. He was not targeted. Information came to the FBI through a fugitive in, at that time, another country, that he wanted in exchange for favorable consideration of his situation to give evidence to the government of a bribe paid by him to then Mr. Claiborne, and I think—I'm not sure of the exact time—of a bribe to Judge Claiborne. We interviewed the prospective witness, got further information. Other collaborative information came from other individuals including a former Assistant United State Attorney. We went forward with that investigation. And in the course of that investigation, evidence of income tax evasion came forward and that formed the basis for an additional charge, in fact, for the charge for which he was finally convicted. That was handled with the Internal Revenue Service and of course the United States Attorneys out there were in charge of the investigation locally.

Senator HECHT. For the record I want to point out that the individual which was from another country was an American citizen, and a man of questionable integrity, the owner of a licensed brothel, and on this particular type of an individual you relied on his testimony.

Judge WEBSTER. Senator, we didn't rely on his testimony, we took his testimony, and reached out for other collaborating facts to determine whether or not he was telling the truth. We get information from the worst kind of people. [General laughter.]

And it doesn't mean their evidence is untrue. It means we have to be careful about it.

Senator HECHT. Why did you send Mr. Yablonsky to Las Vegas?

Judge WEBSTER. I sent, I chose Mr. Yablonsky for Las Vegas, and I take responsibility for having done so. He was doing a very good job in the Cincinnati office. He was, he had developed a significant reputation in undercover activity. I was concerned that while we had substantial indications of organized crime involvement in Las Vegas and the casinos with tentacles reaching from Chicago and Kansas City, we had not been successful in dealing with organized crime out there, and I thought he was the one to go out and do something about it.

Senator HECHT. How do you feel about the situation now?

Judge WEBSTER. I think he did a very good job. Las Vegas is a difficult climate in which to live, and I think he made some mistakes, some personal mistakes, for which he was accountable and was held to account. But in terms of his investigative efforts, when I look at the indictments that came down during his tenure there, I am very pleased that I sent him.

Senator HECHT. How often were you briefed by Mr. Yablonsky during the course of the Claiborne investigation?

Judge WEBSTER. The normal course of events is that the special agents in charge do their reporting to the Criminal Investigative Division, and then I receive informational notes from that division which manages the programs. And that is the way this generally occurred. From time to time, Mr. Yablonsky would request authority to do certain things of a sensitive nature, and those would be elevated to senior officials and often to me for determination. If I thought it were necessary to talk to him personally, I would do so, and on at least one trip, to Las Vegas, I had an extensive conference with him and with the people out there with respect to their work.

Senator HECHT. Did you ever caution him to stay within the bounds of the law during the investigation?

Judge WEBSTER. I don't know that I ever used those terms, because he never proposed to do anything outside the law. But from time to time, I exercised my responsibility in limiting certain activities in order to protect—what I considered to be—to protect the investigation from possible compromise by a very wily subject.

Senator HECHT. Mr. Chairman, my time is up, but I wish to have time to continue this pursuit of questions at a later time.

Chairman BOREN. Certainly Senator Hecht. We'll have more rounds of questions this afternoon and every member of the committee will have a chance to ask every question they wish to ask.

Senator HECHT. Thank you very much.

Chairman BOREN. Senator Cranston.

STATEMENT OF HON. ALAN CRANSTON, A U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator CRANSTON. Thank you, Mr. Chairman. I welcome you to this committee.

Judge WEBSTER. Thank you, Senator.

Senator CRANSTON. You come before us at a time of strain and stress for the Intelligence Community in the wake of the Iran/Contra matters. It is very important to have someone of experience and integrity and very good judgment assuming the role of leading the Intelligence Community. From all that I've gathered this far, you're highly qualified for this nomination, and subject to whatever may come up in the scope of these hearings, I expect you're going to be confirmed, and I will be one of those very happy to join in that confirmation.

I do want to ask you some questions that relate to something that happened in California a while ago. This hearing gives me the opportunity to do that. According to press reports the FBI started an investigation of the Popular Front for the Liberation of Palestine some three years ago. Some of my questions you may not want to answer in open session, some you may want to go back to look at the files, but let me ask you what prompted your investigation at that time of the PFLP?

Judge WEBSTER. Senator, I appreciate your understanding the constraints that I am under in responding to that question. The PFLP is a world-wide organization which has been extremely violent in its activities. It has claimed credit and been involved in such incidents as the shootings in Munich and the hi-jacking of the famous plane that went to Entebbe. A number of Americans have been victims of the PFLP terrorist activity. There was a substantial basis under the Attorney General guidelines to conduct investigations of this organization and the individuals in that organization who might—who we had reason to believe might be engaged in terrorist activity. That was the basis for opening the investigation.

Senator CRANSTON. Did you have any reason to believe that the group was actually engaged in or planning to engage in terrorist activities in this country?

Judge WEBSTER. Taken as a whole, I think we had reason to believe that there were plans in operation of a terrorist nature. With all that is going on in the Middle East we have an awareness of infrastructures in the United States which could form the basis for support mechanisms if individual groups chose to retaliate or to engage in terrorist activities here in this country, and that goes across a number of such organizations. The individuals who were arrested in California had not been found to have engaged themselves in terrorist activity.

Senator CRANSTON. I understand that the Immigration Service actually carried out the arrest of the PFLP members for deportation purposes. But the arrests were based on information provided by the FBI concerning the organization and activities of the individuals, is that correct?

Judge WEBSTER. I believe that is correct, Senator.

Senator **Cranston**. Press reports allege there was mistreatment of the arrested people by the Immigration Service agents, not by the FBI agents. Were FBI agents present during the arrest?

Judge **Webster**. FBI agents were present at the arrest for the purpose of being in a position to interview any of those arrested who wished to cooperate. We did not make the arrest.

Senator **Cranston**. Are you looking into the charges of mistreatment of the people during the arrest by the Immigration officials, or do you have any information on that?

Judge **Webster**. Of course I have spoken to Mr. Allen Nelson, the head of the Immigration Service, and he has ordered an Office of Professional Responsibility investigation into the allegations. We had originally started a civil right investigation but were advised by the Department that we did not have a basis for that and that we should close our investigation and rely upon what should be developed by the Immigration and Naturalization Service, which was looking into it. We've also conducted some internal inquiries as a result of some of the news reports, particularly an article by Mr. Anthony Lewis, that referred to mistreatment of a woman. I think her name is Vitar; it's close to that, Vitar. We do not believe—we know that no agent of the FBI participated in it. We do not have any evidence of any others. Mr. Nelson is looking for any that he can find, and the attorney for the woman has not made her available for us to interview, so that we can do anything further about it. But if there is any way for us to put that to rest, I certainly want to do so.

Senator **Cranston**. What was the reason for the arrests being made for deportation purposes of the alleged members? Was that a technical, legal reason, were they apprehended for deportation because they were "members of a Communist" organization.

Judge **Webster**. Senator Cranston, I believe that some of them were out of status and that would be information, I believe, developed by the INS. But all of them were arrested because they are alleged to be members of a world-wide Communist organization which under the McCarran Act makes them eligible for deportation as foreign nationals.

Senator **Cranston**. So in a way, it was like arresting a gangster for parking by a fire hydrant? Do you think that we need to revise the laws that are available for this purpose? Are we using the wrong tools to address a legitimate concern about terrorism and terrorist operatives in the United States?

Judge **Webster**. That's entirely up to Congress, because in this particular case if these individuals had been United States citizens, there would not have been a basis for their arrest.

Senator **Cranston**. Is there any law that would enable you to focus more narrowly on aliens who are actively involved in clandestine terrorist activities, rather than needing this broader law about membership in a Communist apparatus? In your opinion, would it be helpful to have a law that would be more precise?

Judge **Webster**. I think it would be helpful to have a law that was more precise and was treated as a more serious incident than just civil deportation.

Senator **Cranston**. Under what circumstances does the FBI conduct warrantless searches for intelligence purposes? Is the PFLP the kind of group that might fit the criteria for a warrantless search based on inherent executive powers?

Judge WEBSTER. Our warrantless searches are based upon, first they are based upon the inherent authority of the President to protect the national security and his ability to delegate that authority to the Attorney General, who has in turn, formulated foreign counterintelligence guidelines which include international terrorist activity. I'm not able to respond to the question specifically because the guidelines themselves are classified. I simply can give you the basis upon which, if a search were conducted, it would be under that line of authority that I described to you.

Chairman BOREN. Senator Cranston, we could either pursue that further in a closed session or if you wish to have the Director answer a classified question in writing, that could also be done and made a part of the classified part of our record.

Senator CRANSTON. If you could respond in writing, that would be helpful.

Chairman BOREN. Senator Cranston will direct the question in writing and there could be a response in writing which would be a classified portion of the record.

Senator CRANSTON. My time is about up, so I, thank you very much.

Chairman BOREN. Senator Warner.

Senator WARNER. Thank you Mr. Chairman. Again, Judge Webster, I'm speaking as a citizen. I'm very pleased that you are willing to take on this challenge and put in an additional period of public service.

I want to return to the discussions that I think my colleagues, Senator Nunn and Senator Cohen probed about the role of the President's chief advisor on intelligence matters and the relationship with a President. And your reference to the thought as to what role politics plays in this. Would you care to sort of set the foundation here of your views as to how you hope to relate to your President and particularly what role, if any, politics plays. Now I notice that you've never sought political office; you've apparently have not been a member of a political party; and with your nomination, we've come full circle from your predecessor who was one of the campaign managers for the President, to a person, yourself, who has not been affiliated in any way. I think it would be helpful to me if you would clarify your views with respect to what if any role politics plays in your discharge of your responsibilities in the office and with your relationship with the President.

Judge WEBSTER. Senator Warner, I have to make a confession that for the first 30 years of my life I harbored the idea that I wanted to be a United States Senator. [General laughter.]

Chairman BOREN. Fortunately, that may be the most damaging admission so far. [General laughter.]

Judge WEBSTER. Fortunately, as you see from the gentleman who—distinguished gentleman who introduced me this morning, I didn't have to pursue that arduous task. But I do believe that there are certain jobs in which you, if you're going to hold them properly, you have to stand away from political activity and political concerns even to the point of missing some fund-raising dinners from time to time, which hasn't been all that arduous.

Senator **Warner**. I clearly agree with you in terms of partisan political activities. But the CIA, particularly now that we're going to strip from the National Security Council the responsibility, which I doubt they ever really had, for covert operations.

You're going to be the Chief Operator for this President and perhaps the next President. Of covert operations, and indeed the very essence of a covert operation, it is a political judgment by a President that certain assets of this nation shall be employed in a foreign land to further the interest of our country, primarily our national security. Now that's a political decision. Let's suppose that you were called into the Oval Office by a President, and he indicated that he has made a finding, that it is his judgment that we should pursue a certain covert action. Having had some knowledge of this beforehand, you did your own independent research and you wish to disagree with the President. I'm sure, because I have known you personally and professionally, you would in the strongest of terms necessary, take him by the collar, say Mr. President, you've received bad advice and I caution you in the interest of our country. But then after receiving your advice and all the other advice, he makes a decision, we will, the United States, follow this covert course of action. It seems to me that you have one of two choices and they are very clear. You either salute, march off and implement that covert action. Or you submit your resignation. Now have I succinctly stated that case as you understand it?

Judge **Webster**. I think that's correct Senator, and I think the choice would depend upon whether I thought that my disagreement was so fundamental and that the President's decision was so arbitrary that I could not remain a part of it. I don't expect that in positions like Director of Central Intelligence or the Director of the FBI that in relation to the Attorney General, that you have the right to thumb your nose at the authority that has been placed there by the American people in the President, just because you disagree. But if your disagreement is fundamental, and you know that the action is arbitrary and wrong, you can't stay, and you cannot in conscience support it, you've got to leave. There isn't any option.

Senator **Warner**. I'm most reassured by that response and it clarifies that area. Now I bring you to an example on the 30th of October which we reviewed in the hearing this morning. Attorney General Meese asked the FBI to suspend its investigation. Did you, at that time, try to make any independent inquiry into why that was being asked and to whether or not you should exercise your judgment to say to the Attorney General, I disagree with the propriety of that course of action or did you just accept his request and act accordingly?

Judge **Webster**. No, Senator. The first thing that I did was to ask my own executive subordinates who are in charge of those programs whether suspension would adversely infect the investigation. In other words, I sought a professional opinion on the impact of the request. From what I already knew, that there were sensitive arms initiatives going on in Iran and efforts to release the hostages, and that the hostage activity was getting sensitive, that was in my view a reasonable request with which I did not disagree because my own people had told me that it would not get in the way of our operation. I was careful, I thought, to include in my confirming memorandum making it a matter of record, that I wanted to know if at any time, it became a problem. And I think that this is one of the important aspects of my responsibility if I'm selected for DCI—that in these findings, or these decisions, that we make sure that they be revisited, that they be reviewed and that they be tested in the light of new circumstances. And I wanted to be sure that in that particular case that I knew if something changed—why we should be back in to this rather low-level investigation if it became important. They were to tell me, and they would have.

Senator **Warner**. You've had an extensive record of distinguished public service and now you take on this new post following the confirmation of the Senate of which I am certain. Do you bring to this office your own agenda, a set of goals that you would like to see accomplished and would those goals in any way vary from those of your immediate predecessor? Or from, should we say, the traditional role of the Director of Central Intelligence?

Judge **Webster**. I hesitate to answer that question, because naturally, I don't know all of the goals of my predecessor. I know the many great things he achieved for the CIA in terms of morale and resources and momentum. I think it would perhaps be a mistake for me to speak as to his goals when he is not able to speak for them himself.

I tend to a traditional view of the role of the Director of Central Intelligence. I believe that the most important thing that that agency does, that the CIA does, and the coordinate elements of the intelligence community is to gather intelligence—intelligence about capabilities abroad, intelligence about intentions abroad—that will help the policymakers make sound decisions. Not to make them for them, but to provide them with information upon which they can give the maximum amount of confidence in making their decision. I think it's my responsibility to say in the councils of which I am a member what I think that intelligence means. But not to shape it or manipulate it but to give it all the integrity that I know how.

I believe that that intelligence must come from a variety of techniques including human intelligence, especially in the area of intentions. If we had better human intelligence in Iran, we might have anticipated what was going on there. Intelligence in the street, rather than in the embassy, that's just a private opinion. And I'm not faulting anyone, any other predecessor, I just simply think human intelligence is very, very important because there is really no other agency in government which can carry out that function. There will from time to time be calls on the agency to engage in certain kinds of covert activity—activity in furtherance of a legitimate national foreign policy goal that would not succeed if third countries had to face the fact that our government was openly and militarily involved in that effort. Those efforts are controlled by a careful analysis of the ideas and evolution of the plans, a Finding by the President that supports them and authorizes them and oversight by the Intelligence Committees of the Congress to represent the American people in terms of what we are doing. All of those things, I think are important responsibilities of the Director of Central Intelligence and I believe, too, that it is very important that he exercise his role as the President's principal intelligence advisor.

Now if I may without pressing your time too far, I'd like to say in that respect that I have had a conversation with the President in the company of his chief of staff and principal advisors from the National Security Council.

Senator WARNER. That would be Howard Baker and Frank Carlucci?

Judge WEBSTER. Yes, Frank was not there, but General Powell was there in his place and memorandized the conversation. In that conversation, I suggested that I would think it best for me to return to the traditional role of the Director of Central Intelligence and not be a member of the President's cabinet. The President told me that he agreed and had come to the same conclusion. That I think will help to minimize the perception that the Director of Central Intelligence is a political officer of the President's, in the President's immediate political staffing. But I felt that it was very important that in making that move, it be very clear that I would continue to have direct one on one access to the President. Both Mr. Baker and I know Mr. Carlucci from direct conversations with him and his deputy subscribe to that principle, as does the President. And I will exercise that one on one access as well as other opportunities. I also asked for and promptly was given assurances of what I call the awareness principle, that I be made aware of emerging issues and be invited to attend meetings of the cabinet and other inner circle functions in which issues that would depend upon accurate intelligence would come to me at an early enough date to be of assistance in guiding the President to a correct opinion. So if I have access and awareness I do not need, nor want to be involved, in a cabinet level function and I think we're all straight on that and all in agreement on it.

Senator WARNER. Judge Webster, I thank you for those responses. I think they are among the more important ones for the Senate to consider as we pass on your nomination. You have my support. Good Luck.

Judge WEBSTER. Thank you.

Chairman BOREN. Thank you very much Senator Warner.

Judge Webster, we've kept you far past the time that I indicated we would this morning before breaking. I think, therefore, it would be more appropriate for the committee to wait to resume until 2:30 this afternoon. So we'll stand in recess until the hour of 2:30 this afternoon.

[Whereupon, at 1:22 o'clock p.m., the committee was recessed, to reconvene at 2:30 o'clock p.m., the same day.]

AFTERNOON SESSION

Chairman BOREN. We'll resume our questioning at this point. We will continue having rounds of questions in the order that we did this morning until the members of the committee have had an opportunity to complete the questions which they wish to ask. Judge Webster, I will remind you that you are still under oath from this morning's testimony.

Let me begin the questioning this afternoon. In regard to the question you were asked by Senator Cohen this morning, I believe that he quoted a newspaper article, I believe it was in early December, quoting you as stating that as of that time, you felt there had been no destruction of records in the course of the investigation conducted by the Attorney General.

Judge **Webster**. Mr. Chairman, because I know these are important questions, I believe I said that nothing had been called to my attention. I didn't have a feeling about it.

Chairman **Boren**. Well, I just wonder on what basis you felt that there had been a destruction. Was it merely that nothing had been called to your attention?

Judge **Webster**. Mr. Chairman, that's why I interrupted you because I didn't say I felt that there had not been a destruction; I just said that we hadn't found any yet.

Chairman **Boren**. You had not found any evidence of destruction of records. Did you make any attempt on your own to check as this matter began to unfold during that 4 day period.

Did you make any attempt to discuss the possible destruction of records with anyone or did you endeavor to have the FBI check in any way independently to determine whether records had been destroyed?

Judge **Webster**. Now, are we back—we're on December 5th——

Chairman **Boren**. Between November the 21st and November the 25th.

Judge **Webster**. When I met with the Attorney General following his and the President's announcement at the White House and I met with—I was waiting for them when he returned to his office in the Department of Justice. We convened a meeting there to discuss the implications of what had been announced. And during that discussion, a question of preserving the records came up. And it was my understanding that the Department was taking steps to ask the appropriate officials to preserve their records.

Chairman **Boren**. Did you do anything to assure—or what did you do yourself with FBI resources to determine whether or not any records had been destroyed?

Judge **Webster**. The Attorney General stated that he had turned the question of responsible criminal involvement over to the criminal division of the Department of Justice, which was considering what, if any, statutes may have been violated. And so there—at that point—the FBI was not authorized to conduct an investigation.

Chairman **Boren**. Did you simply take the word of the Attorney General and the Department of Justice that there had been no destruction of records, or did you endeavor independently to assure that there was no destruction of records?

Judge **Webster**. The Attorney General did not make that representation. We discussed as a group—and I considered myself a part of that senior management—what should be done. One of the things that we decided that should be done was that the records should be preserved and the Department undertook to make—to notify those—the appropriate officials.

Now, as it happens——

Chairman **Boren**. You mean, they just simply—this seems to me to be a very naive approach in all honesty and all candor—to simply say, here we're dealing with people that have records in their custody that are suspected of criminal wrongdoing. I assume that in most cases you would simply not notify someone that you suspect of a criminal act; we don't want you to destroy your records now that might implicate you in any wrongdoing.

I mean, are we simply relying upon the good offices of the people under suspicion not to destroy the records?

Judge **Webster**. Well, we're talking about the National Security Council. We do not have an opinion from the Criminal Division of the Department of Justice as to what criminal statutes, if any, form the basis for a criminal investigation as of this conference that I'm discussing and that form of notification is not unlike the forms of notification that the Senate sends out to agencies in the Executive branch not to destroy records.

Chairman **Boren**. Well, now we go back to November 25th when the press conference was held and it became clear that we were into a criminal investigation.

Judge **Webster**. That's the afternoon I'm talking about.

Chairman **Boren**. The afternoon of November 25th.

On that afternoon, at that point the FBI was asked to step in, I believe.

Judge **Webster**. No, Mr. Chairman, the FBI was not asked to step in until Wednesday morning. The Criminal Division was still considering what criminal laws were implicated by what the Attorney General and his staff had developed over the weekend.

Chairman **Boren**. Now, Wednesday morning was what date?

Judge **Webster**. The 26th.

Chairman **Boren**. The 26th?

On the 25th, what action did you take or what assertions did you make in terms of preserving the records?

Judge **Webster**. Only what I have related to you, that there was a discussion in the Attorney General's office about preserving the records and the Attorney General undertook, through the Department, to notify the appropriate heads to preserve the records.

Chairman **Boren**. On November 26th when the FBI was called in, what actions did you take at that point to assure the preservation of records?

Judge **Webster**. The FBI checked to determine whether or not the NSC records had been secured and were informed that they had been secured the night before, on Tuesday.

Chairman **Boren**. Who informed you that they had been secured?

Judge **Webster**. I'm informed that the individual who reported this to us was Mr. Jay Stevens of the President's Counsel's office.

Chairman **Boren**. The President's Counsel's office informed you that they had been secured?

What action did you take to independently verify whether or not they had been secured other than just taking the word of the White House Counsel who might well have been not an unbiased source in this matter.

Judge **Webster**. Mr. Chairman, I was in Chicago at that point. But the agents who were involved were investigating, conducting interviews, and I am sure they did whatever was appropriate.

Chairman BOREN. What action have you taken to make sure they did whatever was appropriate? What check have you made of their actions?

We've had this report which was alluded to by the Vice Chairman this morning. It's been in the press that Fawn Hall, among others, have indicated that there were large amounts of records shredded and destroyed during this period of time.

Judge WEBSTER. Which period of time, Mr. Chairman?

Chairman BOREN. Well, from November 21st on.

And, therefore, I'm wondering what independent check you made or what personal attention you gave to the protection and preservation of those records at the time when it would be somewhat, I think, negligent to simply rely upon the assurances of say, the President's Counsel's office.

Judge WEBSTER. Well—that was the first check that was made. I can't answer because I said I was in Chicago. But the—I received reports from time to time from my officials on the investigative steps that were taking place. And when the Independent Counsel was appointed, he, of course, assumed responsibility on December 19th.

Chairman BOREN. On December 19th?

Judge WEBSTER. He was appointed on December 19th. He asked us to continue our investigations until he actually took over.

Chairman BOREN. Who took physical custody of those records?

In other words, were they put under lock and key, under guard? Who took physical custody? Do you know? Of those documents in the period—Say if we start with November 21st, when the Attorney General began his inquiry on through the morning of November 26th when the FBI was officially called in up to the date in December when the Special Counsel was appointed—who assumed responsibility for physical control and custody of the documents in the period from November 21st through the date in December when the Independent Prosecutor was appointed?

Judge WEBSTER. I'm informed by Mr. Clarke, who is in direct charge of that investigation who is present here this morning, the Assistant Director, that agents were sent promptly to the National Security Council to verify that they were in fact sealed and to make arrangements to have access to the sealed documents for inspection and investigation.

Chairman BOREN. So, an agent, you may feel free to turn to Mr. Clarke, on what date were agents sent to verify that the documents were sealed in a manner in which they could not be tampered with?

Mr. CLARKE. On the 26th.

Chairman BOREN. That was on the 26th.

Let me go back to the question of your colleagues and associates bringing to you concerns. Senator Cohen asked you this morning about colleagues, I believe the Deputy Director Mr. Revell and others had mentioned to you concerns about the activities of Colonel North.

I want to recall your answers as to what kinds of concerns your colleagues brought to you about Colonel North?

Judge WEBSTER. Well these concerns which we discussed at various times had to do with a free-wheeling kind of atmosphere. I want to be careful of what I'm saying about someone who is not charged here. I think we worried about this influence in the National Security Council. He was a very gung ho person, a very tunnel visioned, outgoing—rather result oriented without what I could only term a broader gauge approach to the implications of what he was doing.

That may or may not be true. That was the kind of concern that we had—that these think tanks might turn into action tanks, and that we might not know about it.

Chairman BOREN. Did you have any question as to whether or not he was acting within the bounds of instructions or powers or authority given to him by those above him?

Judge WEBSTER. Well, I think there was some anxiety on our part to be sure that that was the case, but we were never—we were never—I know that Mr. Revell was checking—we were never tasked that I can remember to do anything so it didn't come into an issue of his authority. But there was just some general concern that something foolhardy might take place without the proper scrutiny by others who might have a more balanced judgment.

Chairman BOREN. Roughly, during what period of time did you and Mr. Revell and perhaps others in the Bureau have discussions among yourselves regarding concern about Colonel North?

Judge WEBSTER. It was going on for a long time. I don't want to suggest that we were panicked by it or that we were—we had high anxieties pains. We just regarded him as a different kind of person than we normally associate with the National Security Council and its proper function. And we tried to be a little more watchful about the activities in which he took a role.

Chairman BOREN. To whom did you or Mr. Revell express these concerns that you felt over this period of time?

Judge WEBSTER. Well, it was more of a matter of opinion expression rather than asking anybody to do anything about it. I discussed this with the Attorney General. He was aware—he was aware of Ollie North as the kind of personality that he was and my concern that we stay on top of what was going on in the National Security Council to be sure that things were not getting out of hand.

Chairman BOREN. Now we know that on October 30th, there was this memorandum we have referred to where this person in the Justice Department was quoted as expressing concern about the possible criminal prosecution of Colonel North. You've said that over a period of time, you, Mr. Revell and perhaps others had discussions among yourselves about concern as to the judgment of Colonel North.

Judge WEBSTER. I think that's it, in judgment. I don't think any of us questioned his regard for the law and certainly he was a likable kind of person, but he——

Chairman BOREN. You had some discussions at least with the Attorney General about it. You had——

Judge WEBSTER. In general—in general terms, yes.

Chairman BOREN. In general terms.

You had the investigation of Southern Air commencing earlier which was suspended on October the 3rd. I presume the investigation was of whether or not appropriate or inappropriate activities were being undertaken to aid the resistance in Nicaragua. I presume that those investigations might have also touched upon concern about Colonel North as well. I'm sure Colonel North's name would have popped up in that he was very much involved in the recruitment and raising of funds for these various operations.

My question is did you ever express this concern to the President as to whether or not the President was fully aware of activities of Colonel North?

Judge **Webster**. No, I did not. I didn't have any solid information in that area at all that would have warranted my expressing that kind of opinion even to the Attorney General.

Chairman **Boren**. Senator Cohen?

Senator **Cohen**. Mr. Chairman, the question about the memo should not be seen as raising exaggerated concerns on the part of the committee, Judge Webster. Part of the difficulty is, as Senator Moynihan pointed out earlier, there have been several occasions in the past several years, including the mining of the harbors in Nicaragua and several other cases in which the committee was not notified of certain items, and then we had an Assistant Secretary of State come up and publicly acknowledge that he thought he had successfully circumvented the nature of this specific question asked.

And I think the question that was posed to you was perhaps inartfully asked. I don't know why, in question No. 3, that we said on what date did you learn, either directly or indirectly, from sources other than public media. I don't know why we excluded the public media, but we did. And, for that reason, you concluded that it was not necessary to inform the committee about this memo.

It really comes down to how specific do we have to be? Do we always have to ask the right question or be precluded from getting at least the spirit of the answer we are looking for. I think that is the context in which many of the questions are now being asked of you. Had it not been for the Special Prosecutor—Independent Counsel—we would not have known about this and we didn't learn about it until last evening. And so it raises an issue as to how specific we have to be in the future in terms of getting information.

With respect to that——

Judge **Webster**. May I say something about that, Senator? I certainly agree with what you are saying. As I pointed out in my statement to you that the public source thing was only part of the equation. The other equation was that there was just simply nothing in that memorandum that pointed towards the illegal activities of U.S. government officials, which is what the question asked for. And I don't think any of us felt that it was included in that equation. And not that we were trying to hide anything from you. I didn't even remember that memorandum.

Senator **Cohen**. For the benefit of the press who has been inquiring--it has nothing to do with Iran. Colonel North himself is not mentioned in the memo. But it does, according to your answer, include that a Justice Department official, based on her reading of newspaper articles concluded that Colonel North might be involved in a future criminal probe by a Special Prosecutor concerning U.S. activities in Central America.

So, there was at least some concern at a certain level that he might be prosecuted at some future time.

I guess the question I have is that if, in fact, you were worried about the influence of Colonel North within NSC as you have just stated to Senator Boren, if in fact you were concerned about NSC being involved in a covert operation as far as actually carrying out the covert operation, why weren't you also concerned about the possible destruction of records once the matter started to come to public light and there was going to be an investigation?

In other words, if you have a man who, according to one official, may be subject to criminal prosecution sometime in the future, you have concerns about an individual who is gung ho and perhaps a bit too aggressive or whatever, are generally concerned about his activities in terms of judgment, and then a matter of this magnitude erupts suddenly--now got a major investigation or inquiry going—undergoing the process, why wouldn't you also have a concern about what would be taking place over that week—in that 4 or 5 day period—about who's in charge of the NSC? What's happening in that office? I didn't detect that in your response.

Judge **Webster**. Well, if you're asking me to inquire into my state of mind, which I think you are, you have to get rid of that memorandum that supplied some information about—that had had attached to it a note that the government official—Bob, maybe that ought to be shown to—I just had no recollection—that was not in my mind. It was—and not considered to be important. I really still don't consider it to be important.

Be it the substance of the memorandum or the comment of the United States Attorney. So what I had, I think it——

Senator **Cohen**. Does it adopt any importance in your mind now after the fact, looking back saying that here's a man who may be under possible indictment by a Special Prosecutor for perhaps obstruction of justice?

Judge **Webster**. No, because the department official was just observing what was in the newspaper. With no extra information at all on that subject. But I think your question is a legitimate one about preservation of records.

I was not—I was frankly not concerned over the weekend, because at that time, I did not believe that there was concern about a criminal violation touching on the Iranian arms shipment. I had been informed that there was a Finding, that it had been reviewed by the Attorney General, and that the action was lawful. I had no reason to believe that either the National Security Advisor or Colonel North had any reason to conceal information about a lawful activity.

If that was naivete, I confess to it. But sometimes in 20-20 hindsight, things seem a lot clearer than they did at the time. That's the way it was. That was the way we were looking.

When we became aware of the new issue—that is the diversion of funds to the Contras—it may be that I and indeed the other members of the senior management of the Department should have been more aggressive in more rapidly freezing information. I believe, and I can't comment on this without getting into the Independent Counsel's business, that any damage that was done was done prior to that Tuesday afternoon meeting. And, as I said, the

FBI, who was given jurisdiction, moved in promptly on its own to make sure those areas were taken care of.

Now, you can say yes we should have done it a day earlier. And I won't quarrel with that. I'm certainly willing to be second-guessed, and I try to second guess myself on that. But I can only tell you the way it was and how it appeared to me.

Senator COHEN. On Southern Air Transport, what was the nature of the FBI's investigation into Southern Air Transport that began in late October after a plane was shot down in Nicaragua?

Judge WEBSTER. The plane was shot down in mid-October or early October. It did not involve—it was not a Southern Air airplane. But reports circulated quickly in the newspapers that the plane that had started in El Salvador and it landed—it crashed in Nicaragua, had been maintained in some way at the Florida facility of Southern Air Transport. And so we opened a preliminary inquiry——

Senator COHEN. What was the nature of the inquiry?

Judge WEBSTER. Well, the nature of the inquiry was to ask for records which were not readily destructible. That is records from official agencies about the tail number, registration——

Senator COHEN. What was the purpose of it—to find whether there was a violation on Congressional ban on assistance to Nicaragua? What was its purpose?

Judge WEBSTER. I think it was a Neutrality Act predicate, that is, whether or not we were furnishing arms or anything of that kind that was specifically banned by statute, and to a neutral nation—I mean to enemies of a nation with whom we are not at war. And we were looking to see if there was a connection. We wanted some records. We had an informant. We had interviewed the informant. All that we needed to do at that point was to have a second interview with the informant.

Senator COHEN. Now, when you were contacted by the Attorney General's office—the Attorney General or Oliver North had contacted your office?

Judge WEBSTER. Mr. Trott, the Associate Attorney General, called me.

Senator COHEN. On behalf of the Attorney General?

Judge WEBSTER. On behalf of the Attorney General.

Senator COHEN. OK. And he said that he would ask that you would delay for 10 days so that you wouldn't jeopardize the sensitive negotiations?

Judge WEBSTER. I want to emphasize that he said if we would suspend for 10 days any non-urgent investigative business.

Senator COHEN. Were there any urgent aspects to your investigative——

Judge WEBSTER. Not that I am aware of. I asked Mr. Clarke that specific question, and he said absolutely not.

Senator COHEN. Were you curious as to how your investigation into the relationship between Southern Air Transport and the plane that was down in Nicaragua could somehow jeopardize these delicate negotiations?

Weren't you curious to say well how in the world is that possible?

Judge **Webster**. No, Senator Cohen. I was not. I was not as curious as you might think because in early October, Colonel North had called—after the crash—Colonel North had called Mr. Revell, who was then at a meeting in Nashville. I had attended the same meeting but had left the city. And he called to let him know that the same place—he was aware that we were investigating something at Southern Air and that he wanted us to know that that was the airplane company that had helped them on the other operation, I think was the way he described it. Which he—over in the other place and——

Senator **Cohen**. Assuming that to be the case, that this airline was operating in Iran and in Central America, again, wouldn't you be curious as to why your investigation as to its operations in Central America would somehow jeopardize the release of hostages over in Iran?

I mean I don't understand the connection.

Judge **Webster**. The question that the—the way the Attorney General put it through Mr. Trott was that they were trying to preserve a safe environment for hostage negotiations that were going on at that time. And the concern was that any public awareness of Southern Air's involvement in Iran would—now this is not coming from the Attorney General, this is what I'm deriving from my conversation with Mr. Revell—might expose the hostage negotiations.

Senator **Cohen**. But at that point your investigation was confined really to seeing what the relationship was of Southern Air Transport to Nicaragua? It had nothing to do with Iran?

Judge **Webster**. That's right.

Senator **Cohen**. I guess the question is how do you make the leap to get into Iran that the Iranians somehow might be upset to see that the FBI was investigating the nature of Mr. Hasenfus's activities in Central America that somehow might jeopardize the negotiations currently underway in Iran?

Judge **Webster**. Well, there was great sensitivity over there as evidenced by the fact that the Congress was not—that you were not told of what was going on about having any information about what was going on or who was supporting that activity get out in the public domain in any way.

Senator **Cohen**. So that it really was not a question of directly jeopardizing the negotiations, but rather that if Congress got any wind of your investigation into Southern Air, we might start inquiring further, and that might unravel the negotiations.

Judge **Webster**. I didn't tie Congress into it. I tried to use that as an illustration that—for the same reason——

Senator **Cohen**. That's a pretty good illustration. I mean I don't disagree with what you've said. That probably was the rationale, wasn't it?

Judge Webster. Well, I didn't ask what the rationale was. It did not seem unreasonable to me since the—Mr. Clarke said there was no problem with that investigation, that it was not that kind of an urgent investigation and it could wait for 10 days.

When you are talking about very sensitive hostage negotiations, we were all aware that the efforts were being made to get the hostages out. That there is a lot of sensitivity at that time and no one wants to rock the boat. And, as long as it did not interfere with an ongoing investigation, I had no problems with it.

Senator COHEN. Time has expired. Thank you.

Chairman BOREN. Senator Metzenbaum was not able to ask his questions this morning so I'm going to turn to him next.

STATEMENT OF HON. HOWARD M. METZENBAUM, A. U.S. SENATOR FROM THE STATE OF OHIO

Senator METZENBAUM. Thank you, Mr. Chairman. As you know, I had a bill on the floor and was not able to be here at that time.

Chairman BOREN. Correct.

Senator METZENBAUM. I'm concerned, Judge Webster, about the question of maybe who is watching the chicken coop and whether the fox is in the coop. I'm concerned about instances when the press reports a case of possible wrongdoing by an administration official, such as in the Wedtech case, involving Mr. Nofziger and Mr. Wallach and now, perhaps, Mr. Meese. The question is what does the FBI do? In the Wedtech case, we have in Mr. Wallach a man who prides himself on his close relationship, in fact says that he had been approached by Wedtech, quote, "because of my notoriety as a good friend of Ed Meese," unquote.

And in that case, the Attorney General causes to be set up at their instance a meeting in the White House—and thereafter Wedtech gets a $32 million no-bid military contract. The Army had been opposed to it. The Army dropped its objections. Now we know about Mr. Nofziger's involvement and we know about the involvement of another individual—Jenkins. But Mr. Wallach comes in from out of nowhere an is hired by this company because he is very close to Mr. Meese.

My question is what does the FBI do when they read stories of this kind? What is your role as Director? There may or may not have been law violations here, but the person involved may be the Attorney General of the United States. And he's the one who calls for the appointment of an Independent Counsel. What are you doing or what do you intend to do with reference to this kind of matter?

Judge WEBSTER. I think that the procedure, Senator Metzenbaum, is pretty well set out in the ethics in government—rather the Independent Counsel statute which sets out that we will promptly consult with the officials in the Department of Justice—not the Attorney General, but the people in the public integrity section, the career people—and advise them of any allegations or information that has come to our attention. Then under the statute there is a period of time during which we attempt through means other than grand jury process to obtain any additional information that will help the Attorney General decide whether or not to appoint an Independent Counsel. He must make a finding to the court designated for the appointment of Independent Counsel within a stated period of time. While I don't have all those procedures firmly in my head, it is a self-driving procedure under the statute.

Senator METZENBAUM. But you missed my point. He may be the one who ought to be investigated. There may have to be a special

Independent Counsel appointed in connection with his activities. I don't know that, but I think the people of this country are entitled to have a satisfactory answer. And the only one who can make the investigation and to go forward with the matter is your arm of government. And my question to you is not alone with revolving around Mr. Wallach and Wedtech. We know that in the Whittlesley case—

Judge **Webster**. Which case, sir?

Senator **Metzenbaum**. Whittlesley. Ambassador Whittlesley. W-H-I-T-T-L-E-S-L-E-Y, where the Attorney General was involved, where he decided not to—there was no need of Independent Counsel. We also know that in the Schmults case there was an Independent Counsel in connection with one other person in that matter.

Senator **Nunn**. Mr. Olsen.

Senator **Metzenbaum**. In that case that there was the withholding from the Congress in an executive privilege dispute, of certain papers that were in the EPA. And Deputy Attorney General Schmults reportedly took it upon himself to withhold from Congress hundreds of pages of handwritten notes without telling the committee he was doing that, and finally Attorney General Meese was forced to ask for an Independent Counsel. But he has refused to let that Counsel investigate Mr. Schmults or Miss Dinkins.

Now as a matter of fact, the Independent Counsel even went to court asking for the right to investigate Mr. Schmults. Mr. Schmults is also a friend of Mr. Meese's. Miss Whittlesley is a friend of Mr. Meese's.

There is also another matter. We know of Mr. Meese's involvement. As we read in the paper yesterday, Meese learned about sale of arms—and a probe that was being done having to do with arms sales—to the Contras. And Mr. Meese sticks his nose into a pending investigation that is being conducted by the Justice Department. And Mr. Meese is asked why he is sticking his nose in. He says I wanted to see if he had such an investigation going on because I had seen it in the newspaper.

Well, all of these things involved special interests of Mr. Meese. And my question is, how can the American people rely upon the investigative arm of the United States Government to do something, to find out whether there is and has indeed been a law violation, if everything that you do stops with the man who himself may be the investigated?

Judge **Webster**. There have been a lot of problems with the statute over the last several years. And interpreting all the way to the questions going to the constitutionality of the statute. The statute, in some respects, is confining on the investigative arm because if a protected person, rather not a protected person—excuse me—a covered person, that is a person who is subject to the provisions of the Independent Counsel Act, is under investigation, then we must necessarily confine the scope of our investigation in order not to step on the shoes of the Independent Counsel if one is appointed. These all follow a statutory scheme and if there is a problem with the Act of the kind you suggest, Senator, then I think the Congress ought to look at the Act and see if it needs improvement——

Senator **Metzenbaum**. But I don't think that's the end of it. I don't think it's enough to say that we ought to look at the Act to change it.

The question I'm really asking you is, has the FBI in the past, or do they intend to, investigate these four separate issues that have to do with the Attorney General himself and his conduct? And if you don't investigate them. If you investigate them and then you say to the Attorney General, we believe an Independent Counsel ought to be appointed to investigate the Attorney General, that would be one thing. Or you could say, we believe that there is enough involved in this matter to submit it to a grand jury without going through the Independent Counsel.

But absent that, here you have four separate instances, and I think I can dig up another four without too much difficulty, regarding the Attorney General's conduct itself, and there is no action—and even one case where the Independent Counsel is saying, I want to investigate. And the Attorney General is standing there protecting his friend.

Wallach was his friend. Schmults was his friend. Whittlesley was his friend. And in the Contra arms sale, there was a question of friendship, but a question of ostensibly attempting to advance administration policy.

Judge **Webster**. I believe the courts have passed some judgment on what an Independent Counsel can do and what the scope of the Independent Counsel's authority is when it comes to a question of appointing or not appointing an Independent Counsel. The Attorney General has to give his report to the Congress. I would expect that an Attorney General would always consider whether or not the matter requires his recusal. And I am sure that that has been done, but I really don't know how to answer your question. We will investigate just as vigorously as possible any matter within our jurisdiction. If it happens to come within the provisions of the Independent Counsel statute, then we are required to coordinate our work through the career department officials who will determine the timing and the scope of our investigation.

Senator **Metzenbaum**. Will you investigate the Wedtech matter and the Attorney General's personal involvement in that matter?

Judge **Webster**. It's my understanding that we did participate in the preliminary inquiry.

We are, and that is a pending investigation, I'm just not at liberty to comment on what we are doing.

Senator **Metzenbaum**. I'm sorry.

Judge **Webster**. I say, there has been and there is a pending investigation. I'm just not at liberty to comment on the details of it because it is a pending investigation.

Senator **Metzenbaum**. I think that this goes to the integrity of the process, because it is the Attorney General who is involved—to the extent that he is involved, and I don't know whether he violated any laws or not, but I think the American people are entitled to know. And I would hope that there will be some report or some indication at the conclusion of your investigation.

Judge **Webster**. There will be a report which will go to the court and whether it's signed by the Attorney General, or, if he should recuse himself by the person who stands in his shoes, I'm not in a position to say at this time. But it is a report that is required of the senior official in the department acting at that time in that capacity.

Senator **Metzenbaum**. Director Webster, my time has expired and I'm not sure whether I will be able to have another round of questioning, but either today or tomorrow I do want to get into the entire Varelli matter.

Judge **Webster**. Certainly.

Senator **Metzenbaum**. Thank you, Mr. Chairman.

Chairman **Boren**. Thank you, Senator Metzenbaum.

Senator Murkowski, I know you were otherwise tied up this morning. You may wish us to go on to Senator Specter before we come back to you. Are you prepared to ask your questions now, or would you like to defer to Senator Specter.

Senator **Murkowski**. No, I think I'll wait a little further. I think there will be time.

Chairman **Boren**. Senator Specter.

Senator **Specter**. Thank you very much, Mr. Chairman.

Judge Webster, since this morning's round of questioning, I have had an opportunity to review the memorandum of October 30, 1986, that you had addressed as an addendum in your opening remarks. And there are two portions of this memorandum which seem important to me. One portion of the memorandum which contains a notation that Lieutenant Colonel North may soon be involved in a criminal probe concerning United States activities in Central America by a special prosecutor. And a second notation in the memorandum that it would not be possible to advise other persons in the NSC—National Security Council—and be assured that the information would not be made available to Lieutenant Colonel North.

Your initials appear on the face of the memo. My question to you is are those two matters of sufficient importance that had you read this memo you would have recollected?

Judge **Webster**. I have already told you, Senator, that I did not in fact recollect it. And those are my initials, so I did read it.

Senator **Specter**. Well, I ask you specifically, Judge Webster, in the context of those two comments; I had not asked you about those comments before because I'd only had a summary memo from Intelligence Committee staff. Now I have seen the memo itself. I focus on the language about Lieutenant Colonel North and that he may soon be involved in a criminal probe concerning U.S. activities in Central America by a Special Prosecutor. And I come back to the questions which were asked by Senator Boren earlier about your taking this up with higher officials in the Executive branch and you testified that you had with Attorney General Meese, in a general way, you used expressions that North was gung ho and had tunnel vision. That's substantially different from the statement in a FBI memo on an evaluation that he might be involved in a criminal prosecution.

And my question is—and I don't know if it's useful to pursue it if you don't remember having read this—but isn't this the kind of serious matter relating to somebody in the White House, and the National Security Council's key position where the Director of the FBI ought to take that up with the Attorney General or even the President.

Judge **Webster**. I don't think so. But you can fault my judgment on it. It was an informational memorandum. It was a speculative comment by a Department official, not official advice. It was a speculative comment. It was not taken seriously by anyone else who was actually working those investigations. I received no further communications from my own people about it. And so I simply have to put it in the context at the time. And it probably explains why I don't remember it. I'm sure I read it, but I didn't remember it because there are a lot of things that I have read that I don't now remember that are just informational.

Senator **Specter**. Well, Judge Webster, I don't know that it is speculative. And on the face of this memo, I candidly don't agree with that.

Judge **Webster**. Well, the official says it was speculative. And the official says that it was based upon newspaper reports exclusively.

We've talked to the official about it.

Senator **Specter**. Well, this memo says that the information would be redundant with that publicly available. But the memo itself does not say that the information is based on newspaper sources.

Judge **Webster**. Well, the information contained in the main memorandum which was not about Lieutenant Colonel North was redundant.

Senator **Specter**. Well, what is your basis for saying that it was speculative that Lieutenant Colonel North might be the subject of criminal investigation involving a Special Prosecutor?

Judge **Webster**. "Might" or "may" is speculative.

Senator **Specter**. Well, if it is speculative, is it not serious? Is it not something to be pursued with substantial concern?

Judge **Webster**. If there is an investigation in fact, Senator Specter, I hope it would come to me by some other means than by an officer not involved in that speculating about the newspapers. That was just informational. That is the way it must have been taken by me. But as I have testified, I regret that I have to tell you I don't remember that memorandum.

Senator **Specter**. Well the memo doesn't say that it's either speculative or based upon newspapers. You may conclude that it's speculative. I don't read it that way. My judgment is that if their reading is not that, but even if it were, it's pretty serious.

If you add to it, Judge Webster, that the conclusion is reached not to advise other purposes in the NSC because there is no assurance that the information would not be made available to Lieutenant Colonel North, isn't that a serious matter? If you have information which comes to the FBI and that matter is such that it ought to be referred to the NSC, pretty important material, and you can't do so because North will see it, isn't that a serious matter?

Judge **Webster**. I won't argue with you, Senator. If you want to call it a serious matter and say that I was negligent in failing to view it as a serious matter, I'll accept your verdict on that.

But if you were to ask the person who made that report, that person would tell you it was based entirely on newspaper reading.

Senator SPECTER. Well, I don't have a judgment on it, Judge Webster. I'm just asking questions. I'm trying to figure out—I'm trying to figure out your role in it. But it seems to me that if the FBI is not going to pass information on to the National Security Council because North may have access to it and if North even speculatively may be the subject of a criminal probe by a Special Prosecutor, that's serious business. And that when the FBI Director reads it, he ought to note it. And he ought to tell the Attorney General about it. And maybe he ought to tell the President about it.

This language just can't be blown away. And now we have, a few months later, North, under investigation by a Special Prosecutor. And we have North being involved in calling up the FBI and saying this is the same outfit which is taking care of our business in Iran. This is the same man who is handling a great many matters. This is a man who you say is flawed with tunnel vision, he's gung ho, that he's result oriented, that he has no broad gauged concern.

Now those aren't the characterizations of a criminal. But those are red flags. Those are danger signals.

Well, I have asked the questions and I think I've gotten your answers.

Let me come on to the subject of the information you had about the sale of arms to Iran where you had been informed, as you said, about August 6, 1986, that there was a sale of arms to Iran and you had taken it up with the Attorney General. And I had touched on this briefly in the opening round of questions and really didn't get finished with it. And had asked you in the albeit brief conversation which you had with Attorney General Meese on November 21, 1986, what was said, if anything, specifically about the sale of arms to Iran?

Judge WEBSTER. I believe my response, Senator Specter, was that I was the one who outlined what I knew, or what I, rather, what I had been told and asked him whether that was correct.

Senator SPECTER. Which conversation are you talking about?

Judge WEBSTER. We're talking about the only one we had about this thing, November 21, on Friday.

Senator SPECTER. And what did you say specifically to Attorney General Meese, if anything, about the sale of arms to Iran?

Judge WEBSTER. All right, it went something like this, as best I can recall. It was following a luncheon or breakfast meeting in his dining room. I followed him into his office and I said that I had been advised by Buck Revell that at an OSG meeting, Oliver North had said that there was a—that they were working on a new Iranian initiative which involved some backwater or back channel negotiations to reopen relations with certain parts of the Iranian people, that it might involve a shipment of—or would involve a shipment of arms and possibly some hostage negotiation—some assistance with the hostages, that I understood that there has been a Presidential Finding supporting this and that he had seen it and approved it. And I just wanted to be sure that he had seen and that he had approved it. That's the substance of the conversation.

Senator SPECTER. That's November 21, 1986?

Judge WEBSTER. That's correct.

Senator **Specter**. And at what point did Mr. Meese say to you that he was going to conduct some inquiry and where you agreed to?

Judge **Webster**. I beg your pardon. I've been focusing on the wrong date. This information came to me——

Senator **Specter**. Well, I thought you might have. That's why I came back to August——

Judge **Webster**. Yes, I'm sorry. I apologize for that.

Everything that I said is correct, but it occurred shortly after August 5th, which was the day that I received the information from Mr. Revell. I beg your pardon.

Senator **Specter**. All right. So on that day there had been——

May I have about 3 minutes, Mr. Chairman, until I can come back to another round?

Chairman **Boren**. Please go ahead and complete your line of thought.

Senator **Specter**. All right, thank you very much, Mr. Chairman.

So on August the 5th you had the conversation with Attorney General Meese about the backchannel negotiations and the shipment of arms to Iran and some hostages being involved.

Now, what conversation did you have with Mr. Meese on November 21, 1986?

Judge **Webster**. Yes, that was a—following some other reason for my being there, I think we were—we had been working on a National—on our department resources board meeting as I best recall. I'm not certain. The Attorney General mentioned to me as I was getting ready to leave—I think it probably was prompted by some comment of mine about the confusion of statements in the press about what was going on, what happened in Iran—that the President had asked him to determine the facts. And that he was going over and was going to talk to the various people involved and was going to try to get the facts straight. Get them accurate.

Senator **Specter**. Was it at that point that you made an offer of personnel?

Judge **Webster**. At that point, I said, "Can we be of any help?"

Senator **Specter**. And he said what?

Judge **Webster**. As best I can recall, he said, "No I don't think so. I don't think there's any need for it, there's nothing criminal about this that I can see, do you?" And I said, "Well no, not on the basis of what I know now.

And we agreed, and that was the end of the conversation.

Senator **Specter**. Well, the question which comes to my mind, Judge Webster, was the one which I had started to pursue with you this morning. And that was that in the context of the conversation you had shortly after August 5, 1986, about the backchannel negotiations and the hostages, and the sale of arms to Iran, and the federal laws, the Export Administration Act which bars exports of goods to nations which support terrorism and Iran had been so classified in the Export Arms Control Act which regulates transfers of munitions and requires Congressional approval. The President can't handle it on his own Finding. You have to have Congressional notification and be overruled. In the totality of that context, why did you not consider that there might be some criminality involved or allegation of criminality or possibility of it?

If I can supplement it as the final comment I have, you said earlier, Judge Webster, that when Senator Cohen asked you what you would have done differently and then he said what would you have done. You responded that you are not an expert investigator and I can understand that. You're the Administrator of the FBI. The Attorney General is not an investigator either. When you start to ask questions, you have to give Miranda warnings, and you have custodial interrogations, you have investigative techniques, preservation of documents, sealings, a tremendous number of very complex matters people only know when they're in it day in and day out.

Where you had the information about the sale of arms, why was there not a danger signal at all that this was something that the FBI really ought to be involved in?

Judge WEBSTER. I didn't see any danger signals at the time. On the basis of the facts as I knew them, my confidence that the Attorney General had reviewed the legal predicate for the actions that were being taken over there. He wasn't going over there to find out if a crime had been committed. He was going over to find out exactly what had happened. Who had authorized this. Who had authorized that. He was going to talk to the people. They were all making statements that seemed at times to be inconsistent. And inaccurate.

Certainly, I would not have felt that it was necessary to take the FBI in there on the basis of a customs management export-import control violation. My assumptions were that if the Attorney General was a part of the National Security Council, had reviewed the Findings, had been brought into it, given an opportunity to consider the legal aspects of what was taking place over there, that that was what was important.

I just wanted to be sure they weren't off running around without legal advice.

Senator SPECTER. Thank you very much, Judge Webster. Thank you.

Chairman BOREN. Senator Hecht.

Senator HECHT. Thank you, Mr. Chairman. It's been a hot afternoon, and before we get on with the security questions, I'll go back to the X-rated questions we were on before, about brothel owner Joe Conforti and the Judge Claiborne case and your handling of agents in the FBI.

Brothel owner Joe Conforti was offered millions in tax breaks to testify against Judge Claiborne. Was that your call, Judge?

Judge WEBSTER. That was not my call and I don't believe it to be true. But it was not my call.

Senator HECHT. That was not your call and you do not believe it to be true?

Judge WEBSTER. And I am unaware of it today.

Senator HECHT. What do you know about allegations that Mr. Yablonsky directed——

Judge WEBSTER. Let me, if I may, correct the record a little.

Senator HECHT. Yes.

Judge WEBSTER. I think there might have been some suggestions of that kind of a basis for a plea bargain. But it was not my call.

Senator HECHT. I will have to research that out. And I will give you a prepared question on that.

My recollection at the time was in the newspaper that he was given tax breaks.

Judge **Webster**. He may very well have been. I was listening to the amounts you were talking about and I don't really know that to be true but it may be part of the plea agreement. But it was not my call.

Senator **Hecht**. It was not your call. That's the main point. OK.

What do you know about allegations that Mr. Yablonsky directed a break-in at Judge Claiborne's home? Did the FBI or Justice Department ever investigate those allegations?

Judge **Webster**. I believe those allegations were investigated as part of an overall Office of Professional Responsibility investigation following various allegations of that kind that were made. We did not authorize such a break-in. I do not, in fact, know that such a break-in occurred.

Senator **Hecht**. What resulted from the investigation of allegations Yablonsky's wife was intimidating local casinos into buying fresh shrimp from a company she was associated with?

Judge **Webster**. That investigation was—there was an investigation of that and it was concluded that it was unfounded.

Senator **Hecht**. Was it not true though that Mr. Yablonsky's wife was in that business and did sell shrimp to the hotels?

Judge **Webster**. Yes, indeed. It was true. And that's why we conducted the investigation.

Senator **Hecht**. But there was no implication that she was using her husband's influence to do—to get this contract?

Judge **Webster**. That was the result of the investigation, Senator.

Senator **Hecht**. Were you aware that while Joseph Yablonsky was heading the Las Vegas field office, he kept a $40,000 bank error in his favor until the bank found the mistake on its own 3 years later, after the FBI official had left office?

Were you aware of that?

Judge **Webster**. I was aware of it after he had left office. I became aware of it after the matter surfaced, but he was already retired at that time.

There was an investigation conducted. And, again, no action was deemed indicated by the Department of Justice.

Senator **Hecht**. Do you condone any of your FBI field agents or future CIA agents engaging in these types of activities?

Judge **Webster**. Which types, Senator?

Senator **Hecht**. Keeping quiet of a $40,000 bank error.

Judge **Webster**. No, I don't condone that.

His explanation was he was not aware of it, that his wife was entirely in charge of the finances. If he had knowingly kept it secret, I would not have condoned it.

Senator **Hecht**. If that was by any other citizen, would he have been prosecuted for that?

Judge **Webster**. I don't know the answer to that. That's a prosecutor's discretion, and I can't answer the question. It would depend on the intent.

Senator **Hecht**. In October 1982, the head of the Las Vegas FBI Office, Joseph Yablonsky, apparently attempted to derail Brian McKay's bid for Attorney General. According to news media accounts, Mr. Yablonsky solicited the help of an intelligence investigator at Nellis Air Force Base in an apparent attempt to dig up the reported inflammatory information.

He also had someone check McKay's military central files in St. Louis. I should like to point out that no derogatory information was found and Brian McKay won the election.

Judge Webster, would Mr. Yablonsky's activities not constitute a violation of the Hatch Act which bars federal officials from interfering in political races?

Judge WEBSTER. That matter was investigated by our Office of Professional Responsibility. It was not found that he was engaging in political activities. His explanation was that he wanted to know more about Mr. McKay who was about to come in to see him during the election.

Since there was no evidence that he was engaging in political activities, that matter stood as I have described it. Mr. Yablonsky was, however, disciplined by me for what I consider to be extremely bad judgment in utilizing the files of another agency to inquire about Mr. McKay for a reason that I did not consider adequate or sufficient.

Senator HECHT. So you would classify this as bad judgment, not any type of a crime?

Judge WEBSTER. That's correct.

Senator HECHT. Were you aware of other prominent Nevadans who were targeted for investigation by the FBI?

Judge WEBSTER. Again, I would like to say that—it would be very sensitive to use that word targeting because we target programs. We target organized crime. We target scheme scams. We should not be targeting individuals.

There were at various times individuals under investigation in Las Vegas as there are all over the United States. But they are based upon something we believe they've done and not because we have some interest in getting something on them.

Senator HECHT. There were newspaper reports, and I just use the term newspaper reports, that certain heads—pictures were on Mr. Yablonsky's walls and he would throw darts at them and—you know anything about anything like that?

Judge WEBSTER. I really don't.

Senator HECHT. In your opinion, why has the Las Vegas Sun been on such a vendetta—and I'll just show you a couple of headlines. "Hecht to Grill Webster on Yablonsky Vendetta," "Will Hecht Give Webster Indigestion?" And one thing after another like this for the last 2 years.

Why, in your opinion does the Las Vegas Sun take this on in such a manner?

Judge WEBSTER. Well, I don't want to impugn the motives of its editor. He was deeply involved in the Conforti—rather the Claiborne investigation. He had strong views about it. He even tried to arrange a meeting with a Senator at the White House to protest the investigation.

Things get pretty heated out in Las Vegas as you know, Senator. And it took a pretty strong SAC to stand up to that.

So I'm not at all surprised that the feuding continued as it did.

Senator HECHT. SAC? Give us the——

Judge WEBSTER. Special Agent in Charge.

Senator HECHT. I see.

So you have nothing in your mind that would have triggered this?

Judge WEBSTER. Well I have something in my mind, but I don't think I ought to say it. [General laughter.]

Senator HECHT. Well, why not?

Senator COHEN. And that's why he's a judge and you're a Senator. [General laughter.]

Senator HECHT. I nearly had him talking. Now shut up. [General laughter.]

Would you care to proceed on that or would you not?

Judge WEBSTER. I'd really rather not. I will if you insist. But I'd really rather not.

Senator HECHT. Well, if it has any bearing on this hearing I would ask you to. If you don't think it does have any bearing, I cannot force you to.

Judge WEBSTER. I don't think it does, Senator. Newspaper people form opinions, particularly if they own the newspaper. And it's—and you can have your article on the front page. I really believe the editor believes what he is writing, but he is out of line.

Senator HECHT. Thank you.

You have mentioned that Mr. Yablonsky was guilty of bad judgment numerous times. However, when he retired, you gave him a glowing recommendation. Is that not correct?

Judge WEBSTER. I don't remember a glowing recommendation. I remember writing him a letter of appreciation for all that he had done for the Bureau.

Senator HECHT. I got 1 minute left and let me ask you a question. I'll lead into the intelligence area:

You chair the Government's highest level of counterintelligence coordination group, and you are a member of the Government's key defensive security planning coordinating group. You were a respected jurist. Based on your perspective from all three of these areas, what is your analysis of our ability to build an effective defensive security system? Is there something wrong in government management or is there something inherent in our national political philosophies and way of life which makes it impossible for us to prevent these previous losses? Does our tendency in the Congress to politicize these matters have a bad impact?

Judge WEBSTER. I believe that we can develop within the Intelligence Community a better system of what we call countermeasures. That is not counterintelligence, we can do better there too, but countermeasures are systems for protecting our national secrets which exist within the community itself and within those public contractors with whom—private contractors with whom the government must share its secrets.

That is only half the equation. The other half of the equation has to do with how we in government publicly act about such things as leaking. Official leaking is bound to reduce the level of concern about private leaking and create a numbness among other government employees about the importance of protecting classified information.

So it starts at the top, in my opinion, if we are going to ever change an attitude about protecting secrets in government.

Senator HECHT. I thank you very much. Mr. Chairman, will we have a chance at another time to question Judge Webster on classified matters?

Chairman BOREN. Yes we will. We will definitely if there are Members that have classified items—and I'll be happy to consult with you about that—schedule a time to do that. I anticipate that we will continue public hearings as well tomorrow. We might conclude our public hearing tomorrow afternoon with a closed session at that time if there are any classified matters.

Senator HECHT. I will have some of those questions for you in a classified context. Thank you very much, Judge Webster.

Chairman BOREN. Let me ask, Judge Webster, what you would do if you were faced with a situation—a hypothetical situation in which your own values were violated either in terms of the covert action that was undertaken or in terms of failure to notify Congress.

Looking back at the concrete situation, our most recent experience, a very damaging situation that developed with the Iranian arms transfer and the failure to notify Congress for a period of some 10 or 11 months.

If you had been the Director of the Central Intelligence Agency at the time that the Finding was issued by the President for January, bearing in mind consent to notify Congress was not given for several months, what would you have done?

Judge WEBSTER. I would have to ask the Chairman to understand that I am not possessed of all of the facts. I only know——

Chairman BOREN. Just knowing what you have read in the newspaper.

Judge WEBSTER. And in the Tower Commission Report.

Chairman BOREN. What would you have done?

Judge WEBSTER. I would have insisted on revisiting the decision not to tell the Congress on a regular and frequent basis. And at the first opportunity when I felt that those reasons that were important to the President at the time that he made the original order were no longer as important as the need to preserve the trust and confidence I would be coming down as hard as I knew how to get the President to change his mind.

Chairman BOREN. Well in this specific situation, of course, the President did not give authority for notification. In fact, we were finally notified through a newspaper in Beirut.

What would you have done?

Would you have remained as Director of Central Intelligence Agency given this concrete situation? We know exactly what occurred, we know from the Tower Commission, from this committee's report and from press accounts. If you had been the Director of Central Intelligence Agency, would you have continued to serve in the administration given the fact that approval to notify Congress of this operation was not given?

Judge WEBSTER. I think, first, and I don't want to evade your question because I'm trying to really be sure that I know the answer to it in my own mind what I would do. I would have been arguing very strongly that the use of Iranian nationals to assist in the release of American hostages in Beirut in exchange for arms was an ill-advised policy contrary to our stated public policy and one which was very important that Congress understood and supported and if it did not understand and support it, there was very little chance that it would ever be so viewed by the American people as, as the President said, making sense when it got on the front pages of the newspaper.

It's a little difficult because there was an important ongoing initiative which many people think had some promise. Although others don't. And that is to try to find a way to restore relationships with a strategically important country when its hostile leader should leave the scene which seems to be not in the too far distant future.

That is a very sensitive type of thing. Any kind of backchannel negotiation is very, very sensitive.

Senator COHEN. We understand Khomeini's grandmother is still alive. I don't know what you've based that on?

Judge WEBSTER. Well, I haven't been in that situation. I explained earlier this morning, I've never seen a Finding until I saw the ones in this case. So I'm not sure exactly how much of that was explored.

Chairman BOREN. But again, surely having just sat back, not even as Director of the Federal Bureau of Investigation, but just an American citizen and now you're reading the newspaper accounts. You would have some feeling about now what would I have done if I'd been sitting there as the Director of the Central Intelligence Agency and I had argued against this policy and I'd argued in favor of notifying Congress and I'd been overruled month after month after month. Now surely most of us can sit back and many of us perhaps are arm chair quarterbacks too often. Most of us can sit back and say if I were there I would have done such and such.

Now, if you had been there, what would you have done?

Would you have remained a part of the administration—you talked this morning hypothetically about well if I were confronted with the situation where I felt it violated my standards or was just going too far, I would have to leave. Or I would have to get out. Or, I've forgotten the exact words, but you in essence meant I would have to resign.

This isn't a hypothetical. It happened. If William H. Webster, if we confirm you to this post, if you had been sitting there as the Director of the Central Intelligence Agency, during that period of time, what would you have done?

Judge WEBSTER. I must tell you in all candor, I would be asking—one of the questions I'd be asking is could this particular committee keep that information within the committee? I don't—I'm saying that because I think it is a legitimate—it influences your decision in trying to balance the importance of it.

I think that I—I'd like to think that I would have prevailed on the President long ago——

Chairman BOREN. The Director did not—the President did not notify Congress. It's not hypothetical—given the operation that was ongoing, given the fact that we were trading arms to terrorists, and you said that disturbed you greatly. It was at variance with our public policy. Would you have remained a part of the administration? I believe as strongly as you do about the responsibility of this committee and others to keep secrets as you know. We have battened down the hatches. I don't think from the current membership of this committee, those currently a member of this committee since January of this year, I don't think we have had any information inappropriately released. We don't even let it out of our space. Documents or notes.

What would you have done?

Judge WEBSTER. If I can take that one as a given, in that context, I would have insisted that there be notification or I would have not been able to stay.

Now, at the exact point at which I would do, I'm not—today, I don't think I can pin that down, because I don't know enough. But I'm confident during--that period was too long. And you should have been notified.

Chairman BOREN. At some time in that period after you had attempted to change the notification policy or the policy itself, you would have left. Is that correct?

Judge WEBSTER. That's correct.

Chairman BOREN. Let me go back again to this logical question that Senator Cohen raised. He said, and I must confess the more I think about it the more difficulty I have in understanding it. We have an investigation of the Hasenfus matter. We have an investigation of Southern Air Transport in terms of their operations in Central America.

You have said that until November the 25th, that you were like the rest of us in this country, you didn't realize there was any connection, diversion of funds from the Iranian arms sale to the Central American activity.

What was it? If you could recreate for us, first of all, who was it, how did this request first come to your attention and what did the person say to you that delivered the message—on October the 30th—that they wanted that investigation suspended or delayed for a period of time?

Judge WEBSTER. I received a telephone call from the Associate Attorney General. That's Stephen Trott. He's the No. 3 man in the Justice Department, and he is the person in charge of all criminal activities in the Justice Department.

Chairman BOREN. And he called you himself?

Judge WEBSTER. He called me himself.

And I'm referring now to my memorandum as I talk to you because I used almost verbatim language.

He called me on the secure line. Said he was calling at the request of the Attorney General. And he said the Attorney General would like to suspend for 10 days any nonurgent work on the Southern Air Transport Neutrality Act investigation. He said that there were apparently some sensitive hostage negotiations going on that could possibly be prejudiced.

He told me that he didn't—that the Attorney General did not want to do anything which would wreck the investigation, but simply wanted to permit a good climate for the negotiations to the extent possible.

And I said that I would check with our Criminal Investigative Division and if there were no problems we would go ahead and do it.

Chairman BOREN. Did you ask him anything else at that point?

Judge WEBSTER. No, I did not ask him anything else. I'm not sure that he knew anything else.

Chairman BOREN. Did you yourself wonder? In other words, why is it that an investigation of something going on in Central America is related to the release of hostages in——

Judge WEBSTER. He was referring to our activity at the Southern Air Transport Company in Florida. And I knew from the report from Mr. Revell that Colonel North had told him that that airline had been used to help the project in Iran.

Chairman BOREN. I understand. But even if Southern Air was providing transportation, or had provided some transportation for arms to Iran, why would the investigation into Southern Air's involvement in Central America, what kind of information and to whom could that information—in other words, if information continued to be put into an FBI file by investigators about, well, here's what Southern Air is doing in Central America, how could that jeopardize the hostages? Logically?

Judge WEBSTER. My testimony on that this morning was and is that this operation was so sensitive that they—everything had been done to minimize any non-need-to-know involvement. And it did everything possible to operate in a covert manner and not have people speculating when—anytime—I'm not trying to put thoughts into the minds of the Attorney General or even why—I'm trying to explain why I didn't think it was unusual. Anytime there is an FBI investigation, people begin to focus on why is there an investigation. We are—we're there with numbers of people, and I am sure that there was concern expressed somewhere to the Attorney General which he felt was valid, and he passed it through Mr. Trott to me.

I came at it looking at it from the standpoint of is this request going to damage an ongoing investigation? Not whether the Attorney General's judgment on this ought to be questioned. But whether or not the investigation he wanted us to suspend would be hurt by such suspension. And so I passed that question to our career people who said that it would not.

And since the Attorney General had asked for it, had given a reason that I thought was reasonable, I didn't second guess that and I don't now.

Chairman BOREN. Is it simply because the same firm, Southern Air, was involved in Iranian arms transportation and was under investigation in Central America, is that the only logical—I'm sort of puzzled by why you didn't say to Mr. Trott, well what does that have to do with the hostages? Or how on earth is there any logical connection between suspending an investigation of something going on in Central America with whatever involvement these people may have had elsewhere?

Judge WEBSTER. Mr. Chairman, I don't believe Mr. Trott knew about the hostage negotiations. Only Mr. Revell and I in the Bureau, only the Attorney General in the Department, were aware of what the National Security Council was doing.

Chairman **Boren**. But you didn't ask him to call back and say I'd like to talk to the Attorney General or know why he——

Judge **Webster**. No, because I talked to Mr. Clarke, and he said it wouldn't affect our investigation.

Chairman **Boren**. Wouldn't affect the investigation? What about at the end of the 10 day period? What action did you take then in terms of reopening the investigation at the end of the 10 day period?

Judge **Webster**. I called back to Mr. Trott and said, "The 10 days are up. Can we begin?" And he said, "I don't know. I'll get back to you." He got back to us on the 20th.

Chairman **Boren**. And said it was all right to resume the investigations?

Judge **Webster**. That's right. No restrictions.

Chairman **Boren**. I want to go into the matter of the Varelli situation, but I think our time is such that I better not commence that.

Now, let me go on to Senator Cohen at this time.

Senator **Cohen**. Well, I think I should take umbrage at one of the Chairman's last remarks. He said that I asked a question, the logic of which could not escape him. Part of that was that I asked questions of which the logic does escape him——

Chairman **Boren**. Let me correct the record. On this instance, I understood the logic of the question but not the logical connection between the two points being raised.

Senator **Cohen**. We are trying to define exactly what you see as the parameters for the timely notification to the Congress. I think you made a statement in response to Senator Boren that if the reasons that the President originally offered for not notifying Congress were no longer as important as they were at the time, then you would give consideration at that point to insisting that notice be given.

I have a difficulty with that because it is still very broad. For example, there are two reasons that were offered for not notifying Congress: No. 1, this was a new strategic opening to Iran. That strategic opening might take 2 years. In which case Congress would never be notified during that 2 year timeframe.

Second, there was what involved the primary motivation, and that was the return of the hostages. Every time a hostage was about to be returned, that would be justification enough not to notify Congress. So you have a program, theoretically, that could be carried on even under your interpretation of timely notice for as long as 2 years—or eighteen months as it was in this case. And you really suggest to this committee that that is your understanding of what timely notice would constitute in the meaning of the law?

Judge **Webster**. No, I think that this is one reason why this particular hypothetical, even though we may know more about it than we do in other hypotheticals, is not as simple as it sounds because perhaps more justification could be made for a diplomatic initiative over a sustained period of time than for a hostage situation involving the exchange of arms. And I don't really know that I know the answer to that, but what I tried to say in terms of defining my sense of timeliness—because the statute doesn't do it and I don't think can do it really—is not just when the reason was not as strong as it was in the beginning, but when the corresponding need to keep the Congress informed—to have the support of the Congress through the Intelligence Committees was more compelling than the remaining reasons for keeping it secret.

Senator COHEN. Do you recall seeing Mr. Gates testify before this committee several weeks ago? Did you have a chance to either watch or read about his interpretation of timeliness?

Judge WEBSTER. I've only seen portions of Mr. Gates' testimony, and I have read portions of it.

Senator COHEN. With respect to timeliness, I think he indicated that forty-eight hours was about as timely as one could get within the meaning of that interpretation. That beyond that time, he would start to be very concerned, and would feel compelled to notify Congress.

Judge WEBSTER. I haven't any problem with that. I think he said several days would be his view of the outside.

Senator COHEN. So you would confine timely notice, then, to within several days, as opposed to several months or in some cases several years?

Judge WEBSTER. Well, I would try to relate it to the particular situation. And as I said in my testimony, I have trouble imagining any situation that is so sensitive and life threatening that the Congress cannot be advised of it.

But one thing, not only do I believe the act makes it clear that you're entitled to be informed, but also, I think, that any project that cannot survive Congressional notification is suspect from the beginning.

Senator COHEN. You also indicated that one other test that you would apply would be that you would have to know whether Congress could keep that secret. That is not a condition in that statute.

Judge WEBSTER. I realize that. And I appreciate your bringing that to my attention. But there are no conditions in the statute. It says that the President should give his reasons why and that he should notify in a timely way. And I was trying to leave room for things that I have said I cannot even imagine that would—where something was so tight that they couldn't come. I can't—I really—I'm a lot in the situation I was when I stood before the committee—Judiciary Committee to be Director of the FBI. I'm trying to leave myself room for the unknown. But I'm telling you that I don't know any situations where you shouldn't be promptly advised.

Senator COHEN. I share your concern about not wanting to disclose information that might possibly be leaked and jeopardize lives, and Senator Boren and the rest of us who sit on this committee are certainly dedicated to that.

But that qualification is not part of the law, and it's one of the things that ended in this entire Iran affair where you have Ollie North, for example, saying let's not tell Secretary Shultz. If you tell the Secretary of State, that's the end of the program. And let's not tell all of the other people, and soon you have a private foreign policy being carried out without anyone's notice or knowledge beyond a select group within the White House. And that's a very dangerous situation to——

Judge **Webster**. I agree with that. And it's one of the reasons of leaking at the Executive branch and leaking elsewhere. It's such a concern to people. If there was some history of rapid leaking, you can appreciate how it could be for them.

Senator **Cohen**. I would suggest that if you have concerns about the potential for leaks coming out of this committee or the House Committee, you ought to come to the committee and express those concerns.

Judge **Webster**. I will. If I'm confirmed.

Senator **Cohen**. You also quoted William Stephenson this morning and it was an excellent quote.

Stephenson also wrote that the enemy is not only at our door, but inside our house—and in practically every room. I think Secretary Shultz has asked for the creation of a committee or commission to investigate the matter in Moscow. If it is determined that our Embassy in Moscow is not fit for human habitation, and Mr. Orkin can't fix it, would you recommend that the Soviets not be allowed to occupy the residence that is attached to the new Embassy on Mount Alto as well?

Judge **Webster**. I would.

Senator **Cohen**. Is it your concern perhaps that they could use the residency with equal or comparable ability to detect microwave signals coming out of——

Judge **Webster**. Well, I just believe that we have to insist on a reciprocity and equivalency at every level——

Senator **Cohen**. Are they occupying the residency now?

Judge **Webster**. There is some—I'm informed that they are in the apartments but there are no offices.

Senator **Cohen**. Your recommendation would be, if we do not move into the new Embassy, that they not be allowed to occupy the apartment side as well?

Judge **Webster**. I think I'm getting out in front of myself and my obligation to express that kind of view first through the National Security Council. But I think I have already indicated my perception.

Senator **Cohen**. Were you involved or at least aware of any sting operation pertaining to weapons sales to Iran in a case that emanated from New York?

Judge **Webster**. Was I aware of——

Senator **Cohen**. Was the FBI the one who was running a sting operation in New York? Was that the Department of Justice?

Judge **Webster**. In New York?

There have been a series of investigations to try to find arms peddlers. I'm not sure whether you are talking about that or the hostage situation. Which one are you referring to?

Senator **Cohen**. The arms sales.

Judge **Webster**. I'm informed that that particular case is a Customs case and not ours.

Senator **Cohen**. Excuse me. As to covert operations, would you support a sunset provision so that all covert oprations automatically terminate after a specific period of time and would have to be reauthorized and reviewed by you and others before they could be continued?

In other words, you're stepping into a job in which there are many covert oprations that have been underway for some time that you might not be fully familiar with, and you will be stepping onto a moving treadmill rather quickly.

Would you support a provision that would terminate all covert operations periodically unless they are reauthorized?

Judge WEBSTER. I'm not sure whether you are proposing that each one be terminated after a particular time or they all come up for a single sunset date.

Senator COHEN. Well, that they each have some specified period of time over which they run. The time frame at which would differ depending on when they were initiated but, in other——

Judge WEBSTER. But that would require some recertification?

Senator COHEN. A formal review by you and others and by the committee, as a matter of fact——

Judge WEBSTER. I would be very much surprised if there isn't some internal procedure of that kind already. There certainly should be.

Senator COHEN. No there is not. As a matter of fact, Mr. Carlucci has only recently recommended that that take place in order to avoid the kind of situation where you may have an errant program under way of which you are not fully aprised.

Judge WEBSTER. All of our undercover operations in the FBI are subject to that kind of restraint—of a review.

Senator COHEN. Are you aware of any intelligence activity that might be unlawful or contrary to an Executive Order which has not been reported to the Intelligence Oversight Board or to the Attorney General?

Judge WEBSTER. No, Senator.

Senator COHEN. Well, I have some other questions dealing not only with the Varelli case, but also with the Catholic Bishop. I think we are going over our time.

Chairman BOREN. Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman.

It's late in the day and I have some questions on other topics too, Judge Webster, but let me turn to one which you and I have discussed and I think have a general area of agreement on. And that relates to the FBI activities on ABSCAM which I think are important in terms of setting a tone of fairness. Certainly the Director of the FBI has a critical position in that respect. And perhaps the Director of CIA is even in a more critical position because even more secret items are done with the CIA and necessarily with covert activities.

You were nice enough to come and visit me before these confirmation hearings began. And I had raised with you a concern which I had about the necessity for some reason to target an individual. You had referred to it as a predicate. You might call it some basis for some proceeding. And it might be said that if someone is a public official, there is no justification of taking a bribe under any circumstance and a strong case can be made for that.

The rules which have been defined traditionally require probable cause when there is a search and seizure. Requires somewhat less when there is a stop and frisk and those are variations talking about drug testing and so forth now.

But in the course of the ABSCAM investigation, there were at least some instances where individuals were targeted for investigation. And they had some notoriety because they were members of Congress. One a United States Senator, at least one member of the House of Representatives.

And I believe personally that the power to investigate is a very great power. When I was District Attorney of Philadelphia, I recollected it very well the greater power, the prosecutorial powers or others because you could investigate again secretly, and I believe that there really has to be some predicate, some reason to proceed.

And I would like your observations at the outset as to your views as to what there ought to be before someone is made subject for target for an investigation.

Judge WEBSTER. Senator Specter, I appreciate that you noted that I use the word predication because I'm trying to get law enforcement community to stop using the word targeting when they're talking about people. It's all right to target a program and find out what's wrong whether it's labor racketeering or organized crime. But when you begin to use the word targeting, it gives the impression that you've decided ahead of time that you are going to develop a criminal case against someone.

The predicate is really a better word conceptually because it means that we have some reason for opening an investigation. That reasoning is not as strong as a full probable cause requirement where we already have the evidence, but it is at least some evidence that gives us reason to believe that a person has been or will engage in crime.

I believe that that type of predicate, although it is not in my opinion required in law, is the responsible way for an investigative agency to proceed. We looked at the observations of the Senate Select Committee which reviewed the ABSCAM and other undercover operations at great length, and we took those recommendations very seriously.

At the time that we were in the midst of the Graylord investigation, in Chicago, I think in my opinion an even more important investigation and certainly a sensitive one because we were inside the Cook County Judiciary investigating the judges in an undercover capacity. And when the Senate came down with this report, I asked that that report be laid alongside our investigations in Chicago to see whether there was a sufficient predicate as outlined in the Senate Select Committee report for those ongoing investigations.

And then we took the additional step of having all the files brought back to Washington because the Senate Select Committee had recommended that these investigations be reviewed at a higher level and they were again reviewed for predication and returned.

And we have had dozens of convictions in Chicago in that investigation. I believe only one judge has been acquitted. It has rendered significant service to the country and to that community. And I have not seen one word in print criticizing the techniques used in the Graylord investigation.

So, that's the difference between getting the ABSCAM case off the ground in a very early seminal long-term investigation and learning lessons and acting on them for future investigations.

Senator SPECTER. Judge Webster, I'm not sure that you are correct when you say that a predicate is not required in the law. In preparation for this hearing, I had some research done and we found no case where a conviction was upheld or there was not some reason for the investigation to be initiated. That is not to say there is a square holding where the absence of a predicate or some reason to proceed led to a reversal. But it seems to me that as of this moment it may be more of an open question and one which candidly might be influenced by a statement by the Director of the FBI, a former federal judge, at a Senate hearing.

The Senate Select Committee was top on the FBI in one particular I would like to read it and see if you agree with it or disagree with it in terms of the use of some of the middlemen. You and I had not talked about this. I have seen this since the meeting but I would like—your response to it. This appears in the Senate Select Committee report on page 19, quote, "In some cases, the FBI relied on the representations of a middleman with no record of reliability for producing corrupt public officials. In some cases the FBI continued to rely on middlemen, even after they had proved to be unreliable in this regard. As a result, the FBI's unduly unquestioning reliance on middlemen at least one (apparently more) clearly innocent public official was brought before the hidden cameras", end quote.

Is that a fair statement, in your judgment?

Judge WEBSTER. I think it's a fair—I think it's a fair criticism. I think there was not a total absence of predication. There was information. Where we are today and our use of this important and sensitive technique, we would not be as willing to rely on the kind of middlemen representations as we did in ABSCAM.

That middleman term needs to be expanded. These were individuals themselves under investigation who were charged and went to prison. These were not cooperating witnesses.

Senator SPECTER. Well, some of them like Silvestri were not charged, were they?

Judge WEBSTER. Yes, Joseph Silvestri was charged, was convicted, was fined $15,000, and went to jail for 3 years on a sentence for 3 years.

Senator SPECTER. And he was all that there was to act against the United States Senator and a Congressman?

Judge Webster. Well, he introduced—he brought Congressman Thompson into the picture. Congressman Thompson was convicted and went to prison. He did also bring a United States Senator to the undercover scene. And that statement is correct.

Senator SPECTER. But the Senator walked out?

Judge WEBSTER. The Senator walked out.

Senator SPECTER. Without taking a bribe? Or suggesting any willingness to take the bribe?

Judge WEBSTER. Nor was he offered a bribe.

Senator SPECTER. But he was moved in that direction before he walked out?

He was moved in that direction by the questioning and comments in the townhouse in Georgetown before he walked out?

Was he not?

Judge **Webster**. The Senator left the meeting without having indicated that he was interested in violating any criminal laws.

Senator **Specter**. Did you disagree with the Select Committee's characterization of Silvestri when they said on page 72 of the report that, quote, "Joseph Silvestri was the most unreliable of the ABSCAM middlemen", unquote.

Judge **Webster**. No, I don't think I disagree with that.

Senator **Specter**. Now the time is running out, Judge Webster, and I think it would be useful to see if you agree with the specific standard. I think you have already indicated that you have, but I think the future proceedings, there would be some weight and some merit in putting this on the record.

The Senate Select Committee articulated a number of standards which they thought should be accomplished through legislation. I believe that you said that you adopted a standard which relates to predicate or reasonable suspicion and I would ask if you agree with this standard which appears at page 28. This is one of a number, but this is a relevant one here.

Quote, "No component of the Department of Justice may initiate, maintain, expand, extend, or renew an undercover operation except, sub a, when the operation is intended to obtain information about an identified individual or to result in an offer to an identified individual of an opportunity to engage in a criminal act on a finding that there is a reasonable suspicion based on articulable facts that the individual has engaged, is engaging, or is likely to engage in criminal activity", close quote.

Judge **Webster**. I have no problem with that. I think that that's substantially what is implied in—what's stated in our FBI undercover guidelines.

Senator **Specter**. A final question.

Senator **Cohen**. Would you yield for a moment?

Was that guideline applied to the Senator who was invited to Georgetown?

As I recall, the FBI——

Judge **Webster**. No, I don't—I think probably not. I think probably not. I would not—you will recall the circumstances, it was a short time frame judgment. I make the judgment. I take the responsibility. There were some in the Justice Department who were of the opinion not to let him come. Would have left open the fact that he was coming and we wouldn't let him come. And he would, in fact, would have been out there unexplained.

I still think we could have found—I still and now think that we could have found a better way to handle that situation without alerting the middleman to the fact that he was dealing with the FBI.

Senator **Specter**. So if you had that to do over, you would not have brought that Senator in?

Judge **Webster**. No. I would have wanted—he was a quick switch. I would have wanted to know more about it.

We had an hour to make up our minds. I had put protective provisions in place. One of them failed. One of them succeeded. The one that succeeded was that no money was to be offered until the Senator made a criminal representation.

Senator **Specter**. And, in fact, you wrote him a letter of exoneration?

Judge **Webster**. I wrote him a letter that said that when I made a statement on the air about only looking for people who were willing to commit crimes that I was not talking about him.

Senator **Specter**. A final question I have for you, Judge Webster, is an inquiry which has been made by Congresswoman Schroeder who wrote to you on March 13, 1987, and I tried to reach Congresswoman Schroeder earlier today and was unable to do so.

But have you had a chance to respond to her inquiry? She apparently was listed in an FBI book, or maybe I should ask the question, was Congresswoman Schroeder among others who were listed in an FBI publication denominated El Salvador's terrorism?

Judge **Webster**. It is not a publication, Senator, it is—it's what we call our FBI Terrorist Photo Album which includes photographs and biographical data.

She was not in our album. She has never been in our album. The form which was given to her, came into her possession and which she showed to me is bogus. It's spurious, and I have written to her and told her both that it is spurious and that she is not nor has she ever been in our album.

Senator **Specter**. So you have had an opportunity and have responded to her letter of March 13, 1987?

Judge **Webster**. She has some additional questions. I think, perhaps in another letter that we are trying to get the answers to. But I had a hand search made of our file so that I could give her unequivocal answer on that point.

Senator **Specter**. Thank you very much, Judge Webster.

Thank you, Mr. Chairman.

Chairman **Boren**. Let me just ask one brief comment on that.

Congresswoman Schroeder is not under investigation by the FBI?

Judge **Webster**. Absolutely not. And as I explained to her in my letter, the photo album only contains people who are subject to full scale—to full field investigation.

Chairman **Boren**. Well, tomorrow we will have an opportunity to go into some of these other matters. I had hoped we might be able to finish today, but I am informed that there are enough questions that members of the committee want to continue to ask in open session.

This room is in use from noon until 2 o'clock tomorrow. Then it will take them sometime to put it back into order for us to resume our hearings tomorrow afternoon. So we will not be able to resume until approximately 3 o'clock tomorrow afternoon in this room.

At the end of that period, I will consult with the members of the committee to see if there are any other questions that need to be raised in executive session or in closed session. If so, we would take those up right at the end of that period.

I think it would be best to break at this point. We have questioned you about every possible matter and it is certainly not our position to test your physical endurance in addition to the ordeal that we put you through today.

As I said at the outset, I know that you understand that all of these questions are offered in the spirit of meeting our own responsibility and not from the point of view of expressing any hostility toward you personally or toward your qualifications for office. We are in a situation in which the sensitivity of this particular position is one of great importance. I think you understand that from the circumstances in which you are nominated to the responsibilities of the DCI, this committee feels a very high degree of responsibility to the Senate and to the country to explore every possible avenue and ask every question that needs to be asked. We appreciate your responsiveness to our questions today very much and I know that you will look forward to being with us again tomorrow.

We will resume at 3 o'clock tomorrow afternoon.

The committee will stand in recess until that time.

[Whereupon, at 4:31 o'clock p.m., the committee was recessed to reconvene at 3:00 o'clock p.m., Thursday, April 9, 1987.]

NOMINATION OF WILLIAM H. WEBSTER TO BE DIRECTOR OF CENTRAL INTELLIGENCE

THURSDAY, APRIL 9, 1987

U.S. Senate,
Select Committee on Intelligence,
Washington, DC.

The Select Committee met, pursuant to recess, at 3:15 p.m., in room SD-628, Dirksen Senate Office Building, Hon. David Boren (chairman of the committee) presiding.

Present: Senators Boren, DeConcini, Metzenbaum, Cohen, Murkowski, Specter and Hecht.

Staff present: Sven E. Holmes, Staff Director and General Counsel; James Dykstra, Minority Staff Director; and Kathleen McGhee, Chief Clerk.

Chairman **Boren**. We resume our hearings today on the nomination of William H. Webster to be Director of Central Intelligence. I remind Judge Webster that this is a continuation of the hearing yesterday and of course you are still under oath. This post, of course, is an extremely important one. It is a position in which we try to strike that appropriate balance between the amount of secrecy that is necessary for effective intelligence operations and intelligence gathering, and yet operations that must be conducted within the bounds of law, responsible to and accountable to elected representatives of the people. So therefore, it is an important post, indeed. We had a series of thorough questions yesterday, and, Judge Webster, as I indicated, I know you understand that degree of questioning indicates no hostility, but is an indication of the seriousness with which we view our responsibility to be thorough and complete, as well as fair in the examination of all information in regard to this particular appointment. We appreciate your willingness to respond to the questions which we asked yesterday. We continue that process today. I would say to the Members and staff members who are present, so that they can inform the other Members that we do anticipate an Executive Session to take up some classified matters a little later on this afternoon, perhaps as early as 4:00 p.m. We will be able to tell at that time whether we will have further open sessions this afternoon, at a later date, or if we have been able to complete the open session matters today before we go into Executive Session.

I'll begin the questioning today with Senator Metzenbaum.

Senator **Metzenbaum**. Thank you, Mr. Chairman. Director Webster, after we concluded the hearing yesterday, in which I had about 10 minutes to ask you some questions, your answers played on my mind regarding the matter of investigating the conduct of the Attorney General of the United States and, in assuming you find something to be of significance, what then would occur. You indicated that there is an ongoing investigation of the Attorney General and others in connection with the Wedtech matter. The Wedtech matter is truly a very significant issue because we know that there was a meeting in the offices of the Attorney General. We know that the Army originally did not want to do business with them, but that then Wedtech wound up with a no-bid contract. We know that Mr. Wallach talked publicly about his close personal friendship with the Attorney General and actually inferred the fact that that's the reason he was hired as the attorney. Now what concerns me is how we are going to find out the facts, because we have a problem, assuming you come up with all the information and it provides a basis for the appointment of an independent counsel, in that the person who has the right to ask the court to appoint that independent counsel is the Attorney General of the United States, and he is the one that is the subject of the inquiry. What do you do? How does it work?

Judge WEBSTER. Senator Metzenbaum, I assume you are asking me that question in a general context and not in the context of an ongoing independent counsel investigation?

Senator METZENBAUM. That is correct. I think it would be general, but it is certainly applicable if you find something.

Judge WEBSTER. I do not recall my saying that the Attorney General was under investigation as of my testimony yesterday. Certain matters are before an independent counsel appointed to investigatge the Wedtech and all criminal matters that may relate to it, but let me return to your question. The process is one by which the FBI or any other agency acquiring information or allegations of criminal activity by individuals who are covered under the statute, reports that information immediately to the Office of Public Integrity in the Department of Justice. A preliminary inquiry begins. That procedure is governed entirely by the statute and there are certain time frames within which a decision must be made. If it involves the Attorney General, the Attorney General should recuse himself. I know of no situation that I can recall in which an Attorney General, while in office, has been made the subject of such an inquiry so I can't draw on precedent. But I can assure you that if an Attorney General, who became the subject of allegations as a covered person under the Independence Counsel Act did not promptly recuse himself, it would quickly be in the newspapers.

Senator METZENBAUM. Would the FBI, or would you as the Director of the FBI, feel obligated to make it a public matter, or would it just be in the newspapers the usual way it is around Washington, by leak?

Judge WEBSTER. Well, I would take the necessary steps to be sure that he did recuse himself.

Senator METZENBAUM. Let me come back to a question concerning the present Attorney General. Newspaper stories have reported that there was a meeting held in his office; that it was called at the insistence of close personal friends of his; that it did result in a change of position as far as the Army was concerned; and that it did result in the company obtaining a no-bid contract for $30-some million. It would seem to me that if it isn't illegal, it would certainly be highly improper; and you indicated yesterday, I thought, that you were investigating the Wedtech matter and, it is my understanding, that included all aspects of it, including the Attorney General. Are you now saying that you are not?

Judge **Webster**. No. I said all aspects will be and are being investigated and the investigation is under the control of an independent counsel.

Senator **Metzenbaum**. But that independent counsel, I'm informed, has not indicated that his authority is broad enough to investigate the Attorney General. That investigation is related to Mr. Nofziger. But I do not understand that his investigation includes the matter of Mr. Meese or any others who might be involved.

Judge **Webster**. I would anticipate that if the independent counsel considers that any other officials who were covered under the Act are logical subjects of investigation, that he would ask for authority to broaden his investigation. If he did so, and it required the approval of the Attorney General to make that determination, I would anticipate that the Attorney General, if he was the person included in the request, would recuse himself.

Senator **Metzenbaum**. We are aware of the fact that in the Schmults case, also a close friend of Mr. Meese, the independent counsel not only asked for the right to broaden the inquiry, but went beyond that and went into court and asked for authority to include Mr. Schmults in the investigation. The Attorney General went into court, or rather the Department of Justice did, opposing broadening the inquiry and the court said that the independent counsel did not have authority to broaden the inquiry.

I don't know whether Mr. Meese was or was not involved in an improper way or an illegal way as pertains to Wedtech, and I'm not suggesting that he was. The basic issue that I'm getting at is that enough has been published concerning this matter that the people of this country have a right to know the facts. The only place that we can hope to get an answer as to what the facts are is the FBI, because you are the only arm of government charged with investigating violations of law. What concerns me is: how do we get the answers as to whether the Attorney General was or was not engaged in illegal activities?

Judge **Webster**. Senator, I can only say that that is now the responsibility of the independent counsel who has a free rein in conducting his investigations. If for some reason, the scope of his responsibility is not broad enough to include the Attorney General, and if the independent counsel believes it should be broadened, then he should bring that to the attention of the Attorney General, who should promptly recuse himself if he is the person involved, and then another official can make that determination.

Senator **Metzenbaum**. Now you have already indicated that the FBI is investigating the entire Wedtech matter.

Judge **Webster**. I have to qualify that. The independent counsel is investigating it with such FBI assistance as he desires.

Senator **Metzenbaum**. I see. Your total responsibilities relate only to that which has to do with your work for the independent counsel.

Judge **Webster**. Absolutely.

Senator METZENBAUM. And beyond that you have no further efforts.

Judge WEBSTER. We currently have an additional investigation. I don't like to confirm or deny ongoing investigations, but in view of your concern about it, we have one that does not involve a covered person and we are carrying that one out. But I thought that your questions were really directed to covered persons. And I believe, if I'm not mistaken, that the court itself can broaden the scope of the independent counsel's investigation. But I'm aware of the court decision that you are talking about and I simply don't know the answer. If there is a flaw in that, that's a legislative problem. But as far as the ability to investigate the Attorney General if the independent counsel believes that he should, I know of no practical impediment to doing so.

Senator METZENBAUM. Let me go to another subject: the activities of Mr. Varelli and the placing in an FBI terrorist photo album of Congresswoman Pat Schroeder. It seems to me there were some others as well who were on that list. Now I have before me the letter that you addressed to Congresswoman Schroeder. You say that in looking through the FBI terrorist photograph album, she does not appear in that album. My question to you is, does she appear in any other record or album or local gathering of information having to do with terrorist activities, or alleged terrorist activities, or in any other way? Do you find her in some other place? Your letter specifically limits it to "a careful search of the entire album that do not you appear in our album, nor have you ever appeared in our album, now would we ever have the slightest basis for including you in our album." Now my question is, and I think it is her question as well, does it appear in any other files, either at the central office or any of the regional offices?

Judge WEBSTER. At the time that I had a telephone conversation with Congresswomen Schroeder and then immediately dictated that letter, this was the only information I could answer with certainty because it involves a much broader search of the records to determine whether her name has ever been mentioned or referenced or indexed. She is not the subject of any investigation. And beyond that I can only say that we are trying to get any information in which her name may appear. That sort of information is available to her under the Privacy Act privileges. But I will try to get it. I would be very much surprised if her name appears in any more than a cross-reference over many years of public life. She is not currently, and I do not know her ever to have been the subject of a criminal investigation. But we are trying to get that information together and make sure it is accurate and give it to her.

Senator METZENBAUM. I'm sure that she would appreciate it and I think the rest of us in Congress would as well. I have additional questions about Mr. Varelli, but I'm told that my time has expired. Perhaps I can ask them in the next round.

Chairman BOREN. Thank you very much Senator Metzenbaum. Judge Webster, let me just complete with a couple of very brief questions along this line. Of course you've worked with the Justice Department and the Congress to develop and enforce strict guidelines to protect First Amendment rights. Given that experience, I want to voice my concern also about what happened in the case of former FBI informant Frank Varelli, who apparently was used in the FBI's investigation of a group actively opposing U.S. foreign policy in Central America, the so-called CSPES, Committee in Support of the People of El Salvador. As I understand it, the FBI special agent who handled Mr. Varelli resigned after the FBI began an internal investigation. Let me just ask this question, what are the control mechanisms that are supposed to make sure that sensitive investigations of domestic political groups are properly supervised?

Judge WEBSTER. The primary control element is found in the Attorney General's guidelines for Domestic Security Investigations. These spell out the conditions under which an investigation of an organization can take place under the terrorism guidelines. In addition to that, there are separate Attorney General guidelines governing the use of informants and the management of informants. There are very substantial Bureau manual provisions dealing with the management of informants. I dare say more care is given in this effort in the FBI than any other investigative agency in the world. We pride ourselves on our ability to manage informants. I think that there are the rare cases where we do not succeed tend to prove the rule that we do manage our informants well and keep strict accountability and records.

Chairman BOREN. How long was Mr. Varelli employed by the FBI? Do you happen to know how long be was employed or the value of his total compensation during that period?

Judge WEBSTER. I don't have his compensation for you but I'll be glad to supply that to you for the record.

Chairman BOREN. That would be fine. We could receive that for the record.

Judge WEBSTER. He was opened as an informant I recall in March 1981. He was closed in February 1982, reopened in November 1982, and closed in January 1985.

Chairman BOREN. So a fairly long period of time, especially in that second segment. Now which official was directly in charge of Mr. Varelli?

Judge WEBSTER. Special Agent Flanagan was directly in charge of the informant, taking the informant's information and informant management until he resigned in April 1984, I believe.

Chairman BOREN. He resigned in April, 1984?

Judge WEBSTER. Yes, Mr. Chairman.

Chairman BOREN. But then Mr. Varelli was continued on in some sort of relationship with the Agency until January of 1985?

Judge WEBSTER. That's correct.

Chairman BOREN. Now to whom did Mr. Flanagan report?

Judge WEBSTER. He reported to a supervisory agent, Mr. Park Sterns.

Chairman BOREN. Now at what point in time did this investigation or this operation begin to be conducted in an improper way? Obviously you decided to suspend the operation totally. When was the decision made to suspend the operation?

Judge WEBSTER. The operation was not suspended because of any alleged improper activities by the informant or by the special agent. It was closed about two years ago when the . . . let me be sure I'm right on that . . . it was closed in June 1985 in consultation with the Office of Intelligence Policy Review of the Department of Justice which monitors these ongoing domestic security investigations.

Chairman **Boren**. Why was it closed?

Judge **Webster**. Because there was no longer a basis for remaining open.

Chairman **Boren**. There was not evidence under the Attorney General's guidelines that this organization was involved in some kind of activity covered by those guidelines.

Judge **Webster**. Not sufficient to warrant a continuation.

Chairman **Boren**. Now we've seen evidence that someone improperly obtained and falsified forms, and was putting the photographs of people like Congresswoman Schroeder on these forms. Some improper things were going on. I'm interested in trying to determine how long these kinds of activities may have gone on. Or how long improper management of the informant went on before it came to your attention as Director of the FBI.

Judge **Webster**. The forms to which you refer were probably—although I can't say because we haven't been able to determine when and how they were produced—but they were most probably generated even after Special Agent Flanagan had left the employ of the Bureau. They are not in our records. So far as I can determine they never were in our records.

Chairman **Boren**. Well, in terms of the improper activity, in other words we had a situation where the informant was not being properly handled, where the agent supervising the informant was not being properly handled, where the agent supervising the informant resigned in April of 1984. We have a sensitive investigation of a group that is practicing political dissent in the country which we now believe there was lack of sufficient evidence of subversive activity to continue an investigation against that group. We are concerned about preventing the FBI or any agency of the government from interfering with legitimate political dissent in the country. What are the procedures for notifying you as Director of these kinds of situations when it is determined by anyone . . . how long does it take from the time the first person in the Agency determines something may be going on that shouldn't be going on, how long did it take in this case when the first person in the Agency learned that something might be wrong, before you, as Director, were informed about it. I'm concerned with the effectiveness of the mechanism we have put in place to determine that things shouldn't go on.

Judge **Webster**. I want to be sure of my date, Mr. Chairman. Sometime in April 1984, Agent Flanagan was in Washington on other business, his car was broken into and some of his records were stolen. In the course of reconstructing the lost records, the Inspection Division became concerned about some of his activities and opened an Office of Professional Responsibility investigation. He resigned during that investigation.

There was also about that time, some indication of trouble between the agent and the informant over the amount of money that was to have been paid to the informant. Prior to those incidents, the informant was supplying us with information in an appropriate, and I believe a proper way, although we still have not completed our investigation because the informant, through his attorney, declines to be interviewed under terms acceptable to the government. So I can't be final about that. It was only after the money issue surfaced that the informant began to tell an entirely different story to others than he had been telling to us.

Chairman BOREN. So the first problem surfaced the April 1984 to the knowledge of authorities in the Bureau . . . with the break in of the car and the investigation that followed.

Judge WEBSTER. That's correct.

Chairman BOREN. And then how long was it before you were personally notified that there might be something going wrong with people who were involved in activities, operations, with a domestic political group that was practicing political dissent?

Judge WEBSTER. I didn't anticipate that question. I'll have to supply it for the record. I distinguish between the activities of Mr. Flanagan and his informant and the overall investigation for which there was a very solid predicate.

Chairman BOREN. Did you make the decision personally to close out this operation with CSPES?

Judge WEBSTER. No, I did not. That was made in the normal way in which our domestic security investigations take place when, on advice of the Department, there is no longer a basis for continuing. That's part of the process.

Chairman BOREN. How can you be assured, as Director, that you know of . . . in other words the American people have looked to you as Director of the Federal Bureau of Investigation to make certain that the authority of the FBI is not abused in terms of legitimate and rightful domestic political dissent. And if you are confirmed as Director of the Central Intelligence Agency, the American people will look principally to you to make sure that the assets of that Agency are not used in any inappropriate, illegal, or unconstitutional manner. What system did you have in place to make sure that you would learn of any kind of complaint or problem that might arise in terms of surveillance of domestic political dissent?

Judge WEBSTER. All allegations of impropriety are immediately picked up by our Office of Professional Responsibility. They pass through me to the Administrative Services Division for review following the completion of their investigation and then I monitor low level administrative action and personally participate in high level administrative action. If I can say to you as a generalization, without trying to spell out all of the procedures that we have in place, in my nine years of office, there has not been one single successfully maintained claim of a violation of a constitutional right by agents of the Federal Bureau of Investigation.

Chairman BOREN. Senator Cohen and then Senator Specter will follow Senator Cohen.

Senator COHEN. Judge Webster, I was not quite clear on the notice that you would feel compelled to give to this committee in the event of a covert operation. I would like to read Bob Gates' testimony before the committee when he came before us for confirmation. He said, "I have committed to the committee that I will recommend to the President against withholding prior notification under any circumstances except the most extreme involving life and death and then only for a few days, several days, my exact statement." Is that your commitment as well?

Judge WEBSTER. I'd like to make it my commitment. I'm not quite in the same position as Mr. Gates. He has a far more intimate knowledge of what goes on over there, and I hope he's right. I certainly would want to. I would expect to.

Senator COHEN. I think if you don't, you're going to have Congress legislating 48 hours.

Judge WEBSTER. I know that absolutely. And I don't want you to have to do that.

Senator COHEN. Do you want to think some more about whether you are going to be in a position at some point to make the same kind of commitment that Mr. Gates made?

Judge WEBSTER. I can make it to you now. I just . . . I want from the very beginning of these confirmation proceedings until the end of the length of time I serve if I'm confirmed, to have you feel that I have maintained every pledge that I have made to you.

Senator COHEN. What is your pledge now on the notice to the committee on covert actions?

Judge WEBSTER. My pledge is to notify you in the timeliest way possible and that I cannot conceive of . . . and I said that yesterday . . . that I can't think of any that would not involve the promptest notification. That's whether we talk about several days, or forty-eight hours, or talk about as soon as possible. I would like to see you notified in less than forty-eight hours if it's possible to do so in a rational, reasonable way.

Senator COHEN. And what if you had doubts about the ability of this committee to keep a secret?

Judge WEBSTER. Well I have no doubts at the present time. If I had reason to doubt, I think I would have to discuss that with the Chairman and the Vice Chairman.

Senator COHEN. So you would still notify the Vice Chairman and Chairman of the committee?

Judge WEBSTER. I would notify you that I had something to tell you, but I had a problem in telling you and see if you'd work with me on it.

Senator COHEN. I'll come back to that later. I was not exactly clear on what your statement was with respect to the Abscam investigation or operation in which one Senator was suddenly pulled in with your net.

Judge WEBSTER. We didn't say he was pulled in, he walked in.

Senator COHEN. Well, he was invited in.

Judge WEBSTER. He was invited in by a crook, not by the FBI.

Senator COHEN. Well that crook happened to be an informant for the FBI.

Judge WEBSTER. He was not an informant Senator. I'm glad you asked that question. He was a corrupt influence peddler who was himself tried and convicted, fined $15,000 and sentenced to 3 years in the penitentiary.

Senator COHEN. How did he put out this so-called net without FBI supervision?

Judge WEBSTER. We don't supervise people who are under investigation. He was one of those under investigation, and we were following his activities. We tried in two ways, which worked very successfully through the investigation. We would either have both systems work or at least one would work. In order to maintain an undercover scenario that was plausible, the so-called agent of the Arab sheik told all of the criminals with whom he was dealing that the sheik didn't want to sell anybody that he was interested in doing business with Congressmen who would sell out their office and only to bring people there who knew what it was all about and were prepared to deal with the sheik's representatives.

Senator COHEN. Now the sheik, that's FBI?

Judge WEBSTER. The sheik is a fictitious person. I think he only appeared 3 times in the whole operation.

Senator COHEN. The FBI said go out and get me somebody who is corrupt.

Judge WEBSTER. No. We did not do it in that way. It has been interpreted in that way. I could take you back from the beginning to show you how we got into it, and I know you don't want me to do that, but we were receiving information about people who were in a chain operation in most cases. They came in very rapidly and the second procedure was that knowing that someone might do as you suggest and go out and try to bounty hunt for unwitting members of Congress, our instructions to our own people—which incidentally was being monitored over closed circuit television by representatives of the United States Attorney under circumstances where they could control the operation—our instructions were no money should pass to anyone until they had made criminal representations. And that worked in the case you are talking about.

Senator COHEN. My only concern about that particular incident is that I think that as long as you have a reasonable basis to believe that public officials are corrupt, you certainly ought to use full powers of the office to go after them. But, there has to be a reasonable basis to go after those particular individuals other than let's see how many we can corrupt.

Judge WEBSTER. I agree entirely with you Senator Cohen and I testified yesterday, given another chance at it I would, I believe after 9 years of experience that we would have found a better way to handle the situation where we were suddenly confronted with Sylvestri, the corrupt influence peddler, telling us he had substituted someone who knew what it was all about and wanted to come. We could do a better job next time. This does not represent a pattern and practice.

Senator COHEN. In 1978 during your confirmation proceedings you indicated that you were willing and planned to put all of your assets in a blind trust. Following the confirmation proceedings you did not do so for the reason that some of the stock was of great personal sentimental value, I should say, belonging to the family of your wife. Correct?

Judge WEBSTER. No, the reason I did not do so was that . . . two reasons: I decided to reduce my net worth, pardon me, my investment holdings by not taking a mortgage on my home. And at the same time the financial disclosure acts came out and it was very complicated and it made it seem of no particular advantage to a blind trust because I'd still have to keep reporting and be susceptible to conflicts even though I didn't know what was in it. So I thought that in view of the fact I had reduced my holdings and was making a full financial disclosure that it was no longer necessary for me to do it. In this particular assignment I think there is far more sensitivity than there is in the FBI. I have a screening arrangement incidentally in the FBI and I have only had to recuse myself on my own account in cases involving family members associated with various businesses who have come on.

Senator COHEN. Is there any reason why you simply couldn't take your assets and put them in a blind trust today as opposed to a qualified, diversified blind trust?

Judge WEBSTER. Yes, I think there is a very good one Senator. This one makes far more sense. It's provided for in the statutes. It takes it out of my control. I don't know officially what's in there. In other words, I'm not entitled to know any more what they have. If they sell something they don't tell me. If I leave it in a blind trust, I still must disqualify myself from every holding until that holding has been sold by the trustee. I think it is unnecessary and unfair to require a person who volunteers for public life to have to roll over his securities at great personal cost. There is a low cost basis in most of what I have, because I haven't been trading or investing over these years and the law provides for a qualified investment trust that fully protects the government and does not simply put the burden back on the agency to disqualify me for everthing I hold until those holdings are rolled over for no appropriate reason.

Senator COHEN. So you are concerned about the tax implications or consequences of having to sell the stock and of a substantial capital gain.

Judge WEBSTER. That's certainly a factor, Senator.

Senator COHEN. I think you had it about right when you said that you took the position that as FBI Director you reduced your net worth. I think anyone on this committee would probably agree with that. My time is up.

Chairman BOREN. Senator Specter and then following Senator Specter, I'll call on Senator DeConcini. Senator Specter.

Senator SPECTER. Thank you Mr. Chairman. Judge Webster we have talked about the circumstances of the Iran matter and you have testified on generalizations. There has been some comment of the dissatisfaction by the Intelligence Committee on the disclosures which have been made by the CIA. I would like to ask you in the context of the specific information which we know what action you would have taken had you been Director as a basis for our evaluating confirmation of you for that position.

The then-Director of the CIA testified before the Intelligence Committee on November 21, and provided information which omitted certain factors such as the diversion of funds from the sale of arms to Iran . . . diversion to the Contras. There was no information in his statement concerning Ghorbanifar who was the key Iranian contact having failed two lie detector tests. There was no information that the CIA had proceeded without a finding when the CIA facilitated the transit of the airplane. There was no information provided by the then-Director of the CIA that the effort has been made to have a finding applied retroactively to actions already undertaken by the CIA. And my question to you is had you been the Director of the CIA, and had known of those facts when you appeared before the Intelligence Committee on November 21, 1986, whether you would have made those disclosures to this Intelligence Committee?

Judge WEBSTER. Senator Specter, in deference to Director Casey I don't know what he knew, but your question was if I knew these things would I have disclosed them. The answer is yes.

Senator SPECTER. The issue came in a pointed fashion on the confirmation proceedings of Deputy Director Gates who has a significant role in the preparation of testimony of Mr. Casey. Deputy Director Gates testified that he had taken the responsibility for 2 or 3 drafts and the substance of Mr. Gates testimony was that he had information about the diversion to the Contras. He disagreed about Ghorbanifar saying he knew about only one lie detector test. He knew that the activities had been undertaken on the facilitating of the plane without a finding and he knew about the effort to have the finding applied retroactively. My question to you is should Deputy Director Gates have inserted those matters in the testimony which he knew was going to be presented by the Director to this committee?

Judge WEBSTER. That's a tough question because, again I'm only answering in the context that you've presented for me and there may or may not have been other circumstances that would flush out the problem that might confront someone in the position that Deputy Diector Gates had at that time. I would hope that if at any time a Director was about to make a statement to this committee or any other intelligence committee having appropriate oversight, which the Deputy Director knew contained material misstatements of fact, that the Deputy Director would, in the most forceful way, urge his point. Now I distinguish between differences as to differences of opinion as to policy or action where the responsibility is the ultimate responsibility of the Director. But the responsibility for truth is a combined responsibility and those who are preparing testimony for one who has to give it, have an obligation to insist upon truthful testimony.

Now if that person, if the Director then goes forward and gives untruthful testimony, I think that there is a responsibility for the person who shares in that responsibility of truth to take some appropriate action to correct the record. I'm not sure nor would I want to try to answer that definitively here, where that person should go, because I value loyalty. I would expect it in all those who work with me. And I am head of an agency. I do not expect them to join with me in an untruth.

Senator SPECTER. I appreciate the answer you have given. The answer that you've given goes beyond the scope of my question in terms of the Deputy Director preparing testimony which then may not have been used by the Director and then the duties which would involve the Deputy Director in that context. That is not the factual situation presented here that I have presented to you. And I do not put it in the terms of a hypothetical; I put it in terms of a fair statement of what the record showed and what the hearing showed in this very room within the course of several weeks ago.

Judge WEBSTER. I thought I was assuming in my answer to your question that in the situation where the Director gives testimony which the Deputy knows to have been untrue, that there be, that it is incumbent on him to take some action to correct that.

Senator SPECTER. Well, I think that's a commendable position and I would certainly agree with you on that. When you make a statement about the Director's statement having material misstatements of fact, I think it is important to focus on the factor that these facts which I have enumerated for you, were omitted. Some might therefore say that they are omissions as opposed to mistatements, but I think as to a legal conclusion it is the same. When the totality of the statement presented omits material statements, I think that it constitutes a misstatement of fact. But I just want to focus on these items having been omissions.

Judge WEBSTER. I agree that a purposeful material omission of fact is the equivalent of a misstatement of fact to this committee. Where I think there is an avenue of, an area of discussion and exploration is whether that omission was purposeful and distorted the testimony itself. There will always be situations when you have to decide how much you want to include for purposes of a statement in order to tell the full story. And I certainly wouldn't want to suggest that because you left out a horse or an ox or something that did not distort the picture that that made it a material omission of fact. It has to be material. I think we're both talking about the same thing, but a purposeful one, not one that was left out because the researchers failed to bring it forward, but one that was considered, that was important, that should have been presented and was purposefully omitted. That's a material omission of fact.

Senator SPECTER. Judge Webster, my next question to you is one which I will not press you to answer at this moment, until you have had a chance to review the record and to confirm the representations which I have made here today because it is a very important question. And that question is did Deputy Director Gates act properly in having a hand in the preparation of Director Casey's testimony which omitted the important references of diversion of funds to the Contras, Ghorbanifar's failing the lie detector test, the absence of a finding and the subterfuge to have a finding applied retroactively. If you care to answer that now I'd be pleased to hear it, but I would understand because of the importance of the question and its bearing on the qualification of Deputy Director Gates to continue to serve in that position. If you would prefer to review the record as to the factors which I have brought to your attention, I will understand.

Judge WEBSTER. Senator Specter, I appreciate your realizing that I could not possibly answer that question at this hearing. I think you would impose an impossible burden on me if you expected me to carefully and thoroughly review a lengthy record on this subject during these confirmation proceedings. I will make an assurance to you that as a part of my responsibilities, as I would in any open situation, that I would review all of the activities of the Agency including those of its officials including the Deputy Director at the earliest opportunity and I would take appropriate action if any was required, as a result of that. I just think it would be unfair to expect me when 2 committees of the Congress and an independent counsel are trying to get all the facts out, to come to a hasty rush to judgment on a very senior official in the Agency.

Senator SPECTER. Well, Judge Webster, I'm not asking you to answer the question now because I understand that import. But it is likely, as a matter of scheduling, that your confirmation hearings will be pending at least until we return from the recess and that there will be at least a period of 2 weeks. Speaking for myself, I am very interested in your response to that question because I think it is very important as to the continued service of Deputy Director Gates and the adequacy of the information which was presented to this committee by Director Casey, which Deputy Director Gates had a share in the preparation. I think you can review that if you take a look at Deputy Director Gates' testimony to this committee, which was private, later released on December 4, 1986 and you review the proceedings before this committee.

Judge WEBSTER. Senator, I don't want to, but if you insist, I'll review the testimony. But I don't know that that's enough. If you think it's enough for me to draw an opinion, I'll be glad to look and see if I can. I can't quarantee that I would want to express an opinion on that narrow a record.

Senator SPECTOR. Well, I would appreciate it if you would, because I think it is important. I think it is, it goes really to the crux of the matter as to appropriate disclosure by the CIA. It comprehends 3 factors. It comprehends, No. 1, the testimony which Director Casey gave to this committee, and the absence of specification of very material facts. It goes, No. 2, to the competency of Deputy Director Gates, who had a significant hand in the preparation of Director Casey's testimony, and it goes, No 3, to the factor which you raised here today, which I had not raised, and that is the duty of the Deputy Director of CIA to inform this committee of material facts which were not disclosed by the Director.

Let me move on briefly to another point or two, Judge Webster. You testified yesterday that if the President had not made a disclosure to the Intelligence Committee or the Congress as required by law, that you would resign. Correct?

Judge WEBSTER. I think that's my testimony. That's right.

Senator SPECTOR. My question to you is should you be faced with that unpleasant alternative and felt that failure of the President to comply with the law required your resignation, would you then inform this committee of facts which you considered to be required by law for disclosure?

Judge WEBSTER. I would do so to the extent permitted me by law, and I know of no reasons why I could not, but only after I had resigned.

Senator SPECTER. Judge Webster, you testified yesterday that you would not participate in the Cabinet upon confirmation as Director of CIA. That appears to me to be, to propose a grave difficulty in terms of the role which the Director of the CIA has in coordinating intelligence. In a sense, the DCI is in a supervisory capacity over other Cabinet officers, including the Secretary of Defense, who has intelligence gathering responsibilities in his Department and intelligence gathering in the Treasury. It also seems to me to be problemsome in the context of exerting sufficient influence, commensurate with your knowledge, and your role, on advice to the President. For example, on trying to dissuade a President from selling arms to Iran . . . having the full value of that kind of advice, and having a full voice in the Cabinet on the quality of that interchange.

Wouldn't you be giving up a great deal and wouldn't there be a significant void if you were not to participate as a Cabinet member?

Judge **Webster**. No in my opinion, as much as the difficulties that grow out of having a Cabinet relationship and the privilege of expressing personal opinions and becoming an advocate for policy provisions across the whole range of government. In the course of my discussions with the President and his chief advisors, we all agreed that this decision would not impact upon the direct access, which I have been promised, to the President—perhaps, indeed, more direct access than most other Cabinet members currently enjoy. I was also promised the principle of awareness, that I would be included in all meetings which related to major foreign policy or national security issues, that I would have the opportunity to participate in those Cabinet meetings and in any innercircle meetings of limited numbers of ranking officials.

Senator **Specter**. You're saying that you would participate in some Cabinet meetings?

Judge **Webster**. That's correct, any in which foreign policy issues or national security issues are likely to be involved, requiring the input of the Intelligence Community. I think the importance of my participation is to be aware of concerns and the ability to be sure that the quality of the intelligence and the analytical effort that is developed through the Intelligence Community is of a degree of excellence that will permit the policymakers to make informed and wise judgments.

Senator **Specter**. Judge Webster, I would ask you to reconsider that position in terms of the national interest and not feel bound by what you stated here in these proceedings should you be confirmed. I would just ask you to reconsider it. You'll have to be the judge of that, obviously, but I have a sense that it would deprive the Cabinet and deprive the process of very valuable insights. It is hard to know which Cabinet meetings are going to take up the areas of your expertise. And it is hard to know when another meeting doesn't raise some subject for you which would be very useful. I would at least ask you to reconsider.

Judge **Webster**. I appreciate that. I don't know that I can reconsider it, but I will consider the aspects of what you've said and we've already put in some bureaucratic procedures in place to make sure that I receive the kinds of materials that Cabinet officers receive and awareness of the meetings, and so forth. But thank you for your comment.

Senator **Specter**. But, it would save you one burden of coming to the State of the Union speeches. That might be worth part of it. Thank you very much, Judge Webster. Thank you Mr. Chairman.

Chairman **Boren**. Thank you, Senator Specter. Senator DeConcini.

Senator **DeConcini**. Judge Webster, I believe that you've had some questions regarding Frank Varelli and the FBI conducting some break ins and what have you. Am I correct that there is an internal investigation underway into those charges?

Judge **Webster**. Yes there is, Senator.

Senator **DeConcini**. And we cannot take that up at this particular time?

Judge WEBSTER. I think probably not, but I can say this much for the record because the investigation has been concluded with the exception of the interview of Mr. Varelli. The FBI can find no evidence of such break ins.

Senator DECONCINI. OK, and we can be briefed on the evidence that was presented in the investigation.

Judge WEBSTER. Well, so far as we can determine, all of the other agents who were available for interview have explicitly denied it, and I don't know of anyone who has come forward with explicit evidence that any agent was involved.

Senator DECONCINI. Does that include administering any polygraph examinations?

Judge WEBSTER. No polygraphs on that investigation.

Senator DECONCINI. Is that normal that there would not be polygraphs on such?

Judge WEBSTER. Normally, polygraphs are administered where there is an issue of fact, where 2 people are giving different testimony on a particular issue.

Senator DECONCINI. And you determined that there was no difference between the accusations of Mr. Varelli or anyone else, informants versus the FBI position?

Judge WEBSTER. Other than Mr. Varelli who declines to be interviewed at the present time.

Senator DECONCINI. What safeguards exist to control FBI warrantless searches for intelligence purposes?

Judge WEBSTER. There are very few warrantless searches.

Senator DECONCINI. How many are there in a twelve month period? Is that a classified number?

Judge WEBSTER. I think that is classified. I'm not sure that I have the exact number, but if I have it I'll give it to you in the closed session.

Senator DECONCINI. Will you please? And what are the procedures? Is that classified too?

Judge WEBSTER. I beg your pardon?

Senator DECONCINI. What are the safeguards and procedures for such warrantless searches? Is that classified too?

Judge WEBSTER. We use as the basis for our request the Foreign Counterintelligence Guidelines of the Attorney General. We make full affidavits of all facts that support the authority of the Attorney General to issue a warrantless search. If you are focusing on the CISPES investigation, I can confirm to you that there were no warrantless searches.

Senator DECONCINI. There were no searches? Well, although I'm interested in that case to a minor extent, I'm really interested in knowing what the procedures are. I'm sure you have them. I just don't have them and if someone could give them to me. I don't know if they are of a classified nature or not.

The FBI electronic surveillance for intelligence purposes requires a court order, I know, under the Foreign Intelligence Surveillance Act of 1978. In 1984 and again in 1986, this committee recommended the development of a similar court order procedure for intelligence searches so that the FBI would have statutory authority, subject to the constitutional checks of a judicial warrant. Do you believe it would be a good idea to enact such legislation?

Judge WEBSTER. Senator DeConcini, I believe the position of the Department of Justice has been that the present procedure is working satisfactory. I have testified in response to questions, but I believe this committee, and other committees in the past, that we are working well with the FISA statute and if you wanted to and felt it necessary to adopt similar legislation for warrantless searches that we could work with that.

Senator DECONCINI. I don't mean to put you on the spot, but your own personal opinion, after operating the FBI for 9 years and some months, as its Director, would be valuable. Do you have a personal opinion? I am just interested in your observation having been there first hand.

Judge WEBSTER. There have been so few warrantless searches and most of them have been in counterintelligence areas, that it has really not risen to a problem. We did have a problem in domestic security searches which had been conducted without warrants, and the Supreme Court said you couldn't do that and then we had national security wiretapping which was presumed to be under the authority of the President. And while the Executive branch has never yielded in that authority, it did agree to support and abide by the Foreign Intelligence Surveillance Act. Prior to that Act, it was becoming increasingly difficult for the FBI to get approvals for electronic surveillance because of concern of those immediately around the Attorney General, that somehow he would become exposed to personal liability. And the gloss on the rules became so heavy that it was hard for us to work. The law that the Congress passed in electronic surveillance has worked extremely well as far as the FBI is concerned. And I'm frankly glad it's there. I can say that because it was just being adopted at the time I was up for confirmation in 1978.

Senator DECONCINI. I take it, Judge Webster, you don't think it is necessary to go any further? If Congress elects to do that, that's fine? You think the Agency can work with it?

Judge WEBSTER. You've stated my position exactly.

Senator DECONCINI. One last question. Judge, your statement indicated that you will have or you have already made arrangements with the President to have direct access whenever you feel that is necessary. Based on what you know of the CIA what do you anticipate that amounts to? Do you think that amounts to briefing the President and seeing him on a scheduled basis as well as emergencies? What would be your schedule of keeping a President well informed, realizing emergencies arise where you have to call him and tell him instantly, but for normal day-do-day operations of the CIA.

Judge WEBSTER. Without going into too much detail in an open session, the President has frequent and regular briefing papers prepared for him by the Agency and those would continue. There will be, I think, increased circumstances when I will want to discuss the content of those papers personally with the President. There will be other situations in which I will want to participate with the National Security Advisor in making certain that the President is aware of particular intelligence matters that impact upon the national security. And I would have no problems and in fact would want to participate in joint discussions with the National Security Advisor. There may be other circumstances in which I would feel that I had to have my own unvarnished views and my own unvarnished opportunity to present our intelligence to the President.

Senator DECONCINI. You would not foresee a scheduled meeting with the President on a time certain, notwithstanding any emergencies?

Judge WEBSTER. That's really up to the President. But I will expect to exercise that privilege because unexercised privileges disappear.

Senator DECONCINI. Well it concerns me and I don't know enough about it, but it seems to me if the past Director had scheduled meetings, some of these things might have come to the President's attention. I'm not sure that they did or didn't but my only observation, from what I know of the preliminary investigation of the present problem with Iran and the Contra affair is that the Director either withheld or did not meet with the President frequently enough and tell him what was going on. I just leave that purely as a suggestion. It seem to me that if I were in your shoes, or if I were in the President's shoes, I'd like to see the CIA Director once a week.

Judge WEBSTER. I appreciate your comments, Senator, and I agree with them. I do not believe in the principle of plausible deniability. I have excluded it entirely from the FBI and I do not believe it should be applied at the national security level.

Senator DECONCINI. I agree with your assertion that you did. Thank you Judge Webster.

Chairman BOREN. Thank you very much Senator DeConcini. I have to go to the floor now to vote and I will return. Senator Cohen will preside. I do want to make one thing clear for the record in that we are not here for the purpose of debating the qualifications of any other person, but I do want to state that it is the opinion of the chair, the chair can speak only for himself, that Deputy Director Gates had rendered outstanding service. I would say that he has performed during the time as acting Director with extreme candor. I would not want to have conveyed to you that there is any unanimity of opinion on this committee that the Deputy Director had acted in any improper fashion. Every member of the committee is free to reach his own interpretations of the actions of the Deputy Director. This Senator happens to think that he has performed in an oustanding fashion and is continuing to render outstanding and very candid services as Acting Director during this difficult period. He has been extremely open with this committee and has kept this Chairman extremely well informed as to activities of the Agency. I would want the record to very clearly reflect the view of this Senator on that matter. I'll turn it over to the Vice Chairman.

Senator COHEN. Senator Hecht.

Senator HECHT. Thank you very much Mr. Chairman. I'd like to echo the words of Senator Boren. I too feel that Bob Gates has acted very well and is a very qualified individual, and I'd like the record to reflect that at this time.

Judge WEBSTER. Senator Hecht, may I say that I share the same view, and I'm looking forward to the privilege of working with Mr. Gates.

Senator HECHT. He is a professional. He's trained in aspects. The aspects he doesn't have he has very qualified people handling that and I'm very, quite impressed with him.

I'd like to follow up from yesterday's questions. Last year the Senate passed a resolution requesting an investigation into many of the questions I brought up yesterday, the handling of Judge Clairborne. I still feel it's very, very relevant; the point being how you handle agents, how you use agents for targeting. Not individuals, but how you target your agents. And how you discipline your agents.

You testified yesterday that although Mr. Yablonsky handled his investigation of Judge Harry Clairborne in a lawful manner, there are several things that occurred out there that you were not proud of. What were you not proud of?

Judge WEBSTER. Well, normally I would respectfully decline to answer that question because it would invade the privacy of the agent and we try to protect that, but this has already been a matter of public record through an official disclosure because of the intense interest in Las Vegas.

I was not proud of the way he had handled a complimentary dinner for his family at a casino, insisting that he had been promised a complimentary evening. And I required that he repay the money, the value of that dinner.

As I said earlier, I was not proud of his bad judgment in seeking to get information about a candidate for office before he allowed him to come in to be interviewed.

Those were the particular incidents that I thought were not worthy of the fine performance that I believe he had otherwise given the FBI and his country.

Senator HECHT. Following through, I'm going to bring up this candidate for office. When did you find out that Mr. Yablonsky, I'll call him Joe, had gone into this and sought information on his background?

Judge WEBSTER. I can't give you the exact date, but as soon as we received a complaint from Mr. McKay, we opened an Office of Professional Responsibility investigation into it.

Senator HECHT. OK, so you had a memorandum from McKay and then that's how you found out about it. Not before?

Judge WEBSTER. Well, I'm not, I can't recall with certainty whether Mr. McKay complained to the newspapers or the newspapers went with the story, or whether he wrote to me or the Attorney General. That's not clear in my memory, but as soon as it became, it was called to our attention in that way. If you're asking did I hear it from anyone in the Las Vegas office, the answer is no.

Senator HECHT. So you had no idea at all that Mr. Yablonsky was doing this?

Judge WEBSTER. No, Senator, none at all.

Senator HECHT. And as of yesterday, I am trying to remember exactly, what type of disciplining action did you take against him?

Judge WEBSTER. Mr. Yablonsky was censored and placed on probation. He was called back to Washington, and I personally presented his letter of censure and expressed my disappointment in his performance. That, for a Special Agent who had already been eligible for retirement for a number of years and spent his lifetime in the Bureau, being placed on probation during his last months in office, was a very severe action, and was so regarded in the FBI and by him.

Senator HECHT. But it was brought out yesterday that when he retired he was given a recommendation, was he not?

Judge WEBSTER. I don't believe so. I don't know what that is all about. The only communication I had with him is the kind of letter that I send to retiring Special Agents at the command level.

Senator HECHT. Just routine; nothing more, nothing less.

Judge WEBSTER. That's right.

Senator HECHT. OK, let me go on to another point I brought up. You cleared that up. Thank you, very much.

I brought up about the IRS supposedly in newspaper talk making a deal. Did the FBI conduct a sting against the Director of the Nevada IRS office, Gerald Swanson, who opposed making a deal with Joe Conforti, the brothel owner, and if so, why?

Judge WEBSTER. I think that was an IRS investigation, Senator Hecht. I don't believe the FBI was involved in it.

Senator HECHT. Not at all in that at all?

Judge WEBSTER. That is my understanding of it.

Senator HECHT. Did the FBI open a bribery investigation of a respected Las Vegas Homicide detective, Chuck Lee, a polygraph operator, who had earlier cleared Judge Claiborne of other allegations? Is the name familiar to you at all?

Judge WEBSTER. Yes, vaguely. There—I am not certain whether we opened an investigation involving him. There were some allegations of seedy conduct out there, and I don't believe that we had a specific investigation as to him, but I do believe that he was involved in the investigation in some way.

Senator HECHT. Well, could I ask you to respond to that in the next couple of weeks before any action is taken?

Judge WEBSTER. I'd be happy to do that, Senator.

Senator HECHT. Would you do that? I couldn't expect you to remember everyone involved in that case.

What probable cause did the FBI have to single out these individuals who were later cleared of any wrongdoing?

Judge WEBSTER. That is a very general question, as I am sure you understand. There was grounds to open an investigation on Senator Claiborne—I said it again. Congressman Claiborne—Judge Claiborne—I beg your pardon. Judge Claiborne—I guess it hurts to say that—and it was based upon representations by a convicted—rather a convicted felon fugitive, who offered information which was subsequently added to be additional corroborative evidence, that bribes had been paid to Judge Claiborne in connection with a particular criminal trial. And that was a very substantial predicate to open an investigation. It later expanded into an income tax evasion case in which the Internal Revenue Service was involved. The case was tried—he was indicted on both counts. Went to a hung jury. In retrying Judge Claiborne the Department of Jusice made a decision to drop the bribery counts because they were really not too convinced that the government's witness would be a good or credible witness before a jury.

And so he was convicted on the income tax evasion counts which were brought forward in the second trial.

Senator HECHT. Getting back to this $40,000 in the bank and the bank error, one final follow up on that. You testified that the FBI investigated the matter but did not pursue it because Mr. Yablonsky claimed his wife kept the books. I am told a Federal grand jury investigated the error. My question is, if Mrs. Yablonsky was aware the $40,000 did not belong to her, why was she not prosecuted?

Judge WEBSTER. I really don't know the answer to that question except that the prosecutors who have the prosecutive decision in this matter determined that there was no basis for prosecution. That is not an FBI function.

Senator HECHT. Is that a Federal crime?

Judge WEBSTER. It may be a Federal crime if there is evidence to support it, but those who exercise the prosecutive discretion did not find a basis for going forward, and that was not the FBI.

Senator HECHT. My time is up. I have got one final question here. We passed by unanimous consent, in the closing days of the last session last year, about a follow-up on allegations of misconduct. Would you recommend to the Senate Judiciary Committee that we have that investigation?

Judge WEBSTER. The actual resolution that was adopted called for a Senatorial review by the Judiciary Committee of the follow-up to the Select Senate Committee on undercover operations, which returned this lengthy and extensive report, and to see whether the recommendations had been fully and adequately implemented by the FBI and other law enforcement agencies.

We are certainly ready to respond to any such hearing. We would not be ready to respond to some allegation that we had been engaged in a lot of misconduct when the record is quite to the contrary. But I believe the resolution as passed calls for a review of how well we have implemented the procedures recommended in the original report. And I certainly can tell you the FBI is prepared to respond to the committee if it desires to hold such hearings.

Senator HECHT. One last few moments—let me just have 30 seconds.

Senator COHEN. 30 seconds.

Senator HECHT. I really appreciate the candor. We have had a lot of people testify before us in the 4 years that I have been in the U.S. Senate. You said you took full responsibility for putting Mr. Yablonsky in Las Vegas. You take full responsibility for his actions. You took full responsibility for bringing him back to Washington and censuring him. And you were aware of all this going on, and I appreciate the fact that you have not evaded any of my questions.

Judge WEBSTER. Thank you, Senator. I appreciate that.

Senator COHEN. Judge Webster, there have been a number of recent reports that indicate that the FBI has maintained some files on 2 Catholic bishops that have been active in civil rights and the peace movement over the years. Much of that information was gathered back in the '60's and the '70's, prior to the issuance of certain guidelines which I believe became effective in 1976. But there is information contained in those files since 1976. I was wondering if you could tell the committee how it is that the FBI goes about collecting information on particular individuals?

Judge WEBSTER. In testimony before the House of Representatives Judiciary Committee and I think perhaps elsewhere, I am not sure, I attempted to explain that we do not have criminal investigative files on the 2 bishops that you are asking about. Their names appear in other files for which we have legitimate investigative interests, either at the criminal level or pursuant to our foreign counterintelligence responsibilities.

A procedure exists in the Bureau for cross referencing names which appear in particular files so that they can be retrieved at some future date by persons investigating other things. I have gone back and had our people go back to see the circumstances for these individuals being included, and I believe almost without exception, they were included in lists of names of people involved in certain organizations or activities for which there was a legitimate investigative interest. They were not singled out, so far as I can determine, because they were bishops, but because they were at a particular place involved in a particular way, and the agents responsible for entering records in the file simply indicated their names for clerical cross reference. There are no files on those bishops.

Senator COHEN. Quite a few pages of cross referencing.

Judge WEBSTER. Pardon me?

Senator COHEN. There are quite a few pages for cross referencing purposes of an individual.

Judge WEBSTER. Yes, and that is unfortunately a result of an inartful way that our Freedom of Information Office used to disclose the presence of information. There might be 350 pages of information about a particular activity in which the individual's name might be mentioned one time. And in responding to the FOIA request, they would say we have a reference with 350 pages, because the person might want to read the whole report. But it is not as lengthy or as extensive as those responses by the FOIA office would include.

Senator COHEN. Tell me a little bit about how that cross referencing system works. Let's suppose, for example, that we have a Soviet delegation, or a representative or spokesperson for the Soviet Union comes to this country and goes around and gives a lecture on arms control. Would anyone in attendance at that particular lecture, because you had counterintelligence responsibilities, be listed as someone who attended the lecture?

Judge WEBSTER. Probably not in that situation, but we probably would identify the leaders of the meeting if they were identifiable and principal participants at the meeting in a counterintelligence type situation.

Senator COHEN. So if I were to participate in a debate or a meeting on arms control, let's say, with Georgi Arbatov or some other high ranking Soviet official or spokesperson for the Soviet Union, and I were to be on the same panel or platform or a guest in the audience who got active in the debate, would I be listed as part of the cross referencing system?

Judge WEBSTER. The original report would probably include the panelists in the exercise. It would then be up to the agents who would have to designate cross referencing whether or not in the circumstances the names of all the panelists should be included. We have been trying to tighten——

Senator COHEN. What are the guidelines?

Judge WEBSTER. The guidelines are not adequately clear. They should be essential information in criminal matters. Relevant information in counterintelligence matters.

We recently completed a planning and evaluation study of this process, and we have been implementing some changes to tighten up our procedures.

Ironically, a year or so ago, last year, one of the problems was that we did not believe that the officers were adequate in their cross referencing some of the files. I very recently sent out another communication to the field emphasizing the other end of the fact that names were not to go into the file unless they could articulate a reason for doing so.

Senator COHEN. So if I were to file a Freedom of Information application, I might find my name in a file listed with the FBI that I had been in attendance or a participant as a panelist in an arms control discussion with a top Soviet official?

Judge WEBSTER. If it was in a file involving a Soviet official, it would be classified and it would not be available to you or to anyone else.

Senator COHEN. That only pertains to counteringelligence activities?

Judge WEBSTER. That's correct.

Senator COHEN. If it were a group under investigation, a peace group as such, would that be available to the individuals involved?

Judge WEBSTER. If there were an ongoing investigation, there would probably be an exemption claim which would preclude its availability.

Senator COHEN. So as a practical matter, citizens have no way of knowing whether or not their names are ending up in the files of the FBI of some particular group, peace group, civil rights group, that's currently under investigation unless if the investigation is terminated?

Judge WEBSTER. I think your answer is correct. And even if it were closed but still classified, it would not be available. But I would like to clarify because I was going along with your hypothetical that it was not appearing—the Soviet representative was not appearing before a group in which we had an interest, your name wouldn't automatically or even likely be mentioned or cross referenced.

Senator COHEN. Well, if the Soviet delegate was appearing before a group, let's say a group that is stirring up controversy but is dedicated to promoting better relations between the Soviet Union and the United States, identified nationally as a peace group, peace links, some other group, would that be then be subject to notation?

Judge WEBSTER. I'd like to be able to answer that question, but I know we are going to have a closed session. I'm so often accompanied by spectators who have an interest in what I have to say about these things, and I really would rather put that one off if I could.

Senator COHEN. In 1978, you indicated you had membership in a couple of clubs which restricted their membership to white males.

They were the St. Louis Country Club, the Noonday Club, the University Club, and the Veiled Prophet Society. In your response to this committee's questionnaire, you indicated that you were a member of both the Noonday Club and St. Louis Country Club.

Do they maintain their same policies?

Judge **Webster**. As I told the Senate Judiciary Committee in 1978, I really believe that I'm as color blind as anyone in the room and that I asked to monitor clubs and if I thought they were practicing discrimination or had any rules or regulations that were discriminatory in a way that I could not accept, I would leave.

The Noonday Club now has women members. The St. Louis Country Club has women members. I'm not sure whether they have any black members or not. That's a social organization, it has nothing to do with business or career, small family. And I have a non-resident membership in it. But I know that it has no restrictions based on race, religion or sex.

Senator **Cohen**. Do you want to tell us what the Alibi Club is? I think it's appropriate for the next Director of the CIA to talk about the Alibi Club.

Judge **Webster**. It's a very small club. I think it enjoys a very prestigious membership of some of the senior people in this town, including Justices. It's so small, that I do not consider it significant that it has no male—it has no female members at the present time. It is limited to 50 members. It meets once a week for lunch. No business is discussed. It's just a private group.

Senator **Cohen**. How about the Academy of Missouri Squires?

Judge **Webster**. The Academy of Missouri Squires is the equivalent of the Kentucky Colonel or Nebraska Admirals. Only it is limited to one—it's actually, I think, a little more honorary. There are only 100 or 200 members. I succeeded General Omar Bradley when he died. It's lifetime honorary position. I'm very proud of it.

Senator **Cohen**. Alfalfa?

This your resignation?

Judge **Webster**. The Alfalfa Club is a fun organization. It meets for a fun evening once a year. And it currently has——

Senator **Cohen**. You can stop, I'm told the Chairman is a member. [Laughter.]

Chairman **Boren**. I think we're almost ready to go into executive session.

Judge **Webster**. I can put my list away.

Senator **Cohen**. I would like to return just a moment to the issue of notification once again.

During the course of the questioning, I raised the issue as to whether or not you would have any hesitancy in notifying the committee if you were concerned about a leak. And you said that you would take that into account. You would come and approach the committee and at least express that concern. I wanted to say, at least for the record to you, that any time you have any questions about the possibility of information being leaked by any member of this committee you not only should—you have an obligation to come before the Chairman and the Vice Chairman, and if that's not satisfactory to the member himself, and if that doesn't work, then to go directly to the leadership both Bob Dole and Robert Byrd and ask that the individual member be replaced.

I think it's that serious and that should be not a consideration in your mind as to whether or not you would comply with the notice requirement under the statute. That should not be even a consideration. Any time you have a doubt, you ought to come before this committee or the House Committee and express that concern. If it can't be corrected, then go to the leadership of the Senate and the House.

Judge **Webster**. I appreciate that.

Senator **Cohen**. And see that the member is removed from the committee. And I think that you will find a very responsive ear certainly from the two of us, and I suspect, from the rest of the membership here, but certainly from the leadership of the Senate.

So I hope that you won't, if you have any doubts about whether or not we can keep a secret, take that factor into account under the statute.

Second, I would like to indicate that I hope you will give some further consideration about the pledge that Mr. Gates did, in fact, make before the committee. I think anything short of that calls into question compliance with the Act and I consider that to be very serious, especially since I believe that had notification been given to the Congress, you wouldn't have had Irangate or Contragate or whatever they want to call it. It would never have taken place. And I believe that this committee and the House Committee—I assume the same thing applies—have been insulating factors against abusive actions taken or arbitrary or unwise actions proposed by the Executive branch.

Judge **Webster**. I agree with that.

Senator **Cohen**. A couple of just final questions on these issues.

With respect to a written Finding, do you believe that you can have a retroactive ratification of a prior act that took place before a Presidential Finding?

Judge **Webster**. I really doubt it very much. I would not consider such a thing as solving the problem created by the failure to have a Finding.

I think it would be useful to have a full exposition in the event of such a failure—what the President had in mind, would have had in mind—but I would have not personally considered it to satisfy the intent and the spirit of the statute.

Senator **Cohen**. Well, I know that you are familiar with corporate law and the doctrine of *ultra vires* actions.

And I think that it would be a very dangerous policy indeed if we ever allow the Agency to take action without a Presidential Finding and then put a President in a position of having to ratify it retroactively.

Judge **Webster**. I mentioned one possible situation yesterday where something could happen in crisis form that required instant, immediate response. And I would probably take that as sufficient provided we got a Finding immediately after that—at the first opportunity to write one down. And I wouldn't quit until I had one.

Senator **Cohen**. Do you know whether or not Mr. Yablonsky is serving as a consultant to the Sacramento B?

Judge **Webster**. I don't have that on personal knowledge but I believe, from what I've been told, that he is.

Chairman **Boren**. Judge Webster, I want to also reaffirm what Senator Cohen said to you just a little bit earlier.

In terms of any question about this committee maintaining the confidentiality of information, I feel very, very strongly about that. I do feel that if you have any doubts rather than withholding notification based upon those doubts, whenever those doubts arise, in advance of any situation where notification would be involved, I would urge you to bring those concerns either to me or to the Vice Chairman or to the leadership of the Senate.

I would say that we have adopted rules, we do not allow documents to be taken out of our space, we do not allow notes on classified testimony to be taken out of our space, it must remain in the vault area. I have consulted specifically within the last 2 weeks with Senator Byrd and with Senator Dole. I have asked if they would back a decision by myself and the Vice Chairman that if we felt we had strong evidence that a member of this committee had leaked classified information, we would seek their removal or their resignation from this committee.

I've been assured by Senator Byrd and by Senator Dole that they support that policy on behalf of the leadership of this committee. And I can tell you that the leadership of this committee intends to exercise exactly that policy and course of action. It will be my determination if we find strong evidence that a member of this committee has leaked information to ask for the resignation of that member from either side of the aisle. If we find that any member of the staff of this committee has leaked information, it will result in his or her immediate termination of employment with this committee. We felt so strongly, we sought that assurance from both leaders in the Senate. We have received that assurance of support from both of them. I want to lay that out to you and also to the public record and to the people of the country because I think we have that very very strong responsibility.

Let me go back to just a couple of points.

Judge **Webster**. Mr. Chairman, before you do, may I say that I appreciate what you have said, that I agree to approach the problem as you and the Vice President—the Vice Chairman have asked and that I appreciate your making such a strong statement because the trust factor which is so important between the Intelligence Community and its oversight is a 2-way street. And that's one of the quickest ways for it to erode. And I appreciate your approach to it.

Chairman **Boren**. I appreciate your comments.

Let me go back to the question of Findings and the process that we follow.

Would you commit to us that you would regard a retroactive Finding, in other words, actions taken without a Finding whether or not some writing was issued later after the fact, as an illegal action at the time of which you would feel an obligation to notify the committee under the law in terms of illegal intelligence operations?

Judge **Webster**. I would consider it—I would consider the Finding and retroactive Finding not to be valid for purposes of action on it.

Chairman BOREN. And therefore—if absent that Finding at the time, it would not have been a legal action?

In other words, retroactivity would not give legality to the action?

Judge WEBSTER. That would be my view of it.

Chairman BOREN. And therefore you would report that illegality to this Committee?

Judge WEBSTER. I would report it.

Chairman BOREN. Let me ask also in terms of oral Findings because there is great concern of people saying that they are acting with the authority of the President without his knowledge. Would you pledge to us to act only upon either a written Finding, clearly signed by the President of the United States, or upon an oral direction from the President himself in case of extreme emergency so that you would know that that order came from the President and from no other person presuming to act under his authority?

Judge WEBSTER. I would.

Chairman BOREN. Let me go back again to the question, and I want you to think very carefully about this because it's very important to the committee.

The law does provide for timely notice of covert action for which prior notice is withheld by the President. The President withholds prior notice; the law says then timely notice shall be given after the fact.

Now I want to repeat again and I want you to really think about this because I can assure you it's extremely important to the members of this committee.

The Vice Chairman has already read the words of Mr. Gates, who has requested to give his position on this matter several times in the course of the hearings and he indicated that he would recommend—we're not saying what would be done, you've already indicated that if the President did not follow your recommendations after a reasonable period of time, that you would consider leaving your post.

This has to do with what you would—not the President's action, but what you would recommend. Would you recommend to the President against withholding notification under any circumstances except the most extreme circumstances involving life and death and then only for a few days? Would that be your recommendation? Would you tell this committee that that would be your recommendation based upon your understanding of the importance of the oversight process?

Would you pledge to this committee to make that your recommendation to the President?

Judge WEBSTER. Yes, it would.

Chairman BOREN. Well, I appreciate that very much and I think it's extremely important that that be understood because we're going to build a consensus for foreign policy, make decisions together, decisions that can stick and won't be reversed every other week. I think it's essential that it is that kind of commitment and that kind of understanding that both branches of government need to go forward together.

Let me ask, and again, I don't want to come back to painful subjects and I don't want to close on this note.

No, I'm not going to come back to the Alfalfa matter, I assure you. [Laughter.]

We can pick that up later with the Vice Chairman in private.

The question of the memorandum. A letter was dispatched from the Vice Chairman and myself to Mr. Walsh on March 9th indicating to him that we would be considering your nomination and asking that any facts that might be relevant to your particular role including copies of any documents under his control which might relate to any possible knowledge that you might have of the Iranian arms sales or the Contra diversion be provided to us. And, as you know, the memorandum about which you were questioned yesterday was provided to us by the Office of Special Counsel.

After that, we brought it to your attention and I understand your interpretation as to events which you have set forth in the record and at the conclusion of your opening statement yesterday why you did not feel it necessary to include that document to us.

My question, had Judge Walsh not sent that document to us, would this committee have ever been apprised of its existence by you or the Bureau or otherwise in the course of this proceeding?

Judge WEBSTER. I can't really answer that question. It is my understanding that the night before the hearing the Chairman asked about this document and that my representatives came right up to you and even though we did not know whether in fact you had a copy of the memorandum, made it readily available to you.

Certainly there was no intent to conceal if from you. There is nothing that I have instructed not be made available to you.

Chairman BOREN. You were aware of it in terms of your own review before the night before last. You were aware of it in terms of your own briefing preparation to appear here? Were you not?

In other words, the people briefing you, I think, had made you aware of the existence of this memorandum?

Judge WEBSTER. The particular matter that was contained in that memorandum was discussed in a criminal investigative briefing several days before. It was not in a, as I recall, in a preparation for this hearing but in a general briefing. My senior staff in trying to pull together every bit of information that related to my knowledge of illegal actions by U.S. Government officials in respect to Central America did not consider that this particular document fell within your line of inquiry. And their reason really was because it was public source material and you had excluded other than media source.

When I was shown the document the morning of the hearing, it was my view that it did still not apply because you asked about evidence of U.S. officials involved in illegal activity. The material in the memorandum related to something entirely different. And while it was in the—it had been referred to in a newspaper article, was otbained under sensitive circumstances.

And I do not believe that it was contemplated. If you ask me the broader question of whether I intend to give you half a loaf on your questions or whether I will, if confirmed, give you the fullest possible answers on matters that I think you are interested in, the answer is absolutely. There was nothing in that memorandum that I thought dealt with what in conversations with you, you told me you wanted to know which was what did I know about illegal activity. And I did not know anything about illegal activity.

Chairman **Boren**. I don't want to go back over this item anymore than is necessary. I want to make it clear I don't want to—I raise this question again with you not for the purpose of trying to over play its importance, or to become so technical as to be unreasonable. I do want the record to reflect that you and I had a discussion even I believe the day before in which you indicated to me that you had come across things sometimes in the files and were going back and researching them to make sure we know about everything. These were things you didn't know about. Things were not brought to your attention and therefore you wanted to make sure you were totally responsive to our question, but didn't want to throw in irrelevant data. And I said to you that indeed that was the case. We didn't expect you to bring in the entire files of the FBI before the committee and matters that were not clearly relevant to our considerations. You expressed certainly a spirit of willingness to try to be thoroughly responsive and I want you to know that I appreciate that. I understand that and I want the record to clearly reflect that as I certainly am not trying to present a distorted picture.

I know that you sincerely wanted to do that. I would have to say in all candor that I think that this was an error on this one point because we were trying to find all of the input that might have come to you. What kind of suspicions would you have normally had. We know that Colonel North had talked to Mr. Revell earlier about this investigation into Southern Transport and then the request for the delay of the investigation and the various conversations you had had wondering about how Colonel North might be operating.

So we were interested in your state of mind and whether you had perhaps been suspicious enough at the time that you were asked to suspend the investigation for a period of time. That's the reason we felt on retrospect, and we're not trying to be your armchair quarterbacks, that perhaps that might have been relevant. But I understand it's simply a difference of interpretation. I'm not trying to overplay it or over dramatize its importance. I think we do understand it and I do want to say that the only point for making it again is to say that we on this committee would hope that when in doubt about the relevance of something and you called me on two matters to ask me if I thought they were relevant and I said no.

We would hope you are always there on the side of disclosure to us and I take you at your word. I take you at your word in the very fine statement you just made to us in terms of your determination to do just that.

Judge **Webster**. I appreciate that, Mr. Chairman. If I might just add into the record that following yesterday, because it was the first opportunity we were able to ascertain from the document in the possession of the Independent Counsel, that that particular memorandum did not reach my office until October 31st, the day after I had authorized the suspension of all non-urgent investigation for 10 days.

I had also, by that time, directed Mr. Clarke to let me know of any matters which would cause us any problem. Since he saw the same memorandum, my own conscience at least in retrospect, is clear that the procedures that I set in place would have worked and did work. But the overall question, I just want to say again, I give you my solemn pledge that I will not try to be devious or cute with the committee. You will—if I know what you're looking for, you will have the information.

Chairman **Boren**. I appreciate that very very much. I appreciate the candor with which you have answered our questions. The patience with which you dealt with them. Again, I want to say I think this has been a very healthy process. It sensitizes us on both sides of the table to our high responsibilities to a system of which we are a part and I think that process in itself has to be good for the country for us to go through it.

It's somewhat stressful at all sides and we have had you sitting there alone at the table now for many hours. But I think in the long run this kind of process has a very constructive purpose and one which serves our country well. I appreciate your participation in it.

Let me ask the Vice Chairman if he has any concluding comments.

At this time, then, we will stand in recess and go into the closed session which we will resume in the committee space upstairs to complete classified questions that members of the committee have to address.

[Whereupon, at 5:03 p.m., the committee was recessed, to reconvene in closed session.]

NOMINATION OF WILLIAM H. WEBSTER TO BE DIRECTOR OF CENTRAL INTELLIGENCE

THURSDAY, APRIL 30, 1987

U.S. Senate,
Select Committee on Intelligence,
Washington, DC.

The Select Committee met, pursuant to notice, at 3:45 p.m., in room SD-628, Dirksen Senate Office Building, Hon. David Boren (chairman of the committee) presiding.

Present: Senators Boren, Bentsen, Hollings, Bradley, DeConcini, Metzenbaum, Cohen, Hatch, Murkowski, Specter and Hecht.

Staff Present: Sven E. Holmes, Staff Director and General Counsel; James Dykstra, Minority Staff Director; and Kathleen McGhee, Chief Clerk.

Chairman Boren. This meeting of the Intelligence Committee is a continuation of the earlier public hearings that have been conducted to consider the nomination of William Webster to be the Director of Central Intelligence.

Judge Webster, we have asked that you come back today for another hearing on your nomination for essentially 3 reasons. First, shortly after the earlier hearings were completed, you sent the committee a letter on April 13th reporting significant new information about contacts between Lieutenant Colonel North and the Federal Bureau of Investigation. We asked your representatives to look into the matter further and we directed our staff to examine documents and to interview key persons involved.

This led to a subsequent letter from you on April 17th, transmitting a letter from the FBI Executive Assistant Director, Oliver B. Revell. These letters and key documents provided to the committee, without objection, are being released by the committee publicly today. That information raised questions members of the committee believed were important enough to warrant this concluding public hearing so that we could have a very clear record of the matter.

As I have indicated before, this post is a very sensitive one in our government. It is a very important one, particularly in light of recent events and the conditions under which we're operating. It is esential that this committee meet its responsibility to be thorough in every way. I think that is to the benefit of everyone concerned. When a Director of Central Intelligence is confirmed by the Senate of the United States, that Director will take his post, with the people of the United States knowing that a very thorough consideration has been made and that that person has been found in every way to be qualified, able and fit to serve. Therefore, we take our responsibility very, very seriously.

A second matter which we wish to raise is that several press reports have appeared since earlier hearings that raise questions about FBI contacts with Lieutenant Colonel North and other matters. By request, the FBI submitted responses on 2 of these subjects. One is discussed in Mr. Revell's letter of April 17th. The other is addressed in an FBI memorandum headed "Jim Adair-Neutrality Matters-Nicaragua." This memorandum, without objection, is also being released publicly by the committee today and becomes a part of the hearing record. Other issues raised by recent news stories may be covered in our questions.

[The documents referred to follow:]

U.S. DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Washington, D.C., April 13, 1987.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I attempted to reach you today about another North "contact" appearing in our files. I understand you are on the road and so I am sending this letter to your office, together with a document summarizing an investigation the Bureau conducted on Mousalreza Ebrahim Zadeh in 1985 and 1986. I have instructed my staff to brief you and the members or staff of the Committee if you so desire. Please contact Assistant Director William M. Baker at 324-5352 for arrangements.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Enclosure.

MOUSALREZA EBRAHIM ZADEH; AKA, "THE PRINCE", PRINCE IBRAHIM AL MASOUD, ET AL.: WILLIAM PENN BANK—VICTIM BANK FRAUD AND EMBEZZLEMENT

Allegations received from the Federal Reserve concerning various fraudulent activities affecting the William Penn Bank (WPB), Philadelphia, Pennsylvania, resulted in an FBI investigation beginning May 8, 1985. One investigation involved a $250,000 check drawn on a closed account at the Saudi French Bank in Saudi Arabia by Mousalreza Ebrahim Zadeh (also known as "The Prince"). While the check was being processed, $210,000 was wire transferred on Zadeh's behalf.

The investigation disclosed that Zadeh represented himself to WPB as a Saudi Arabian commodities dealer, banker, and member of the Saudi Royal Family. Zadeh also represented that he was involved in the sale of Saudi oil which would provide millions of dollars to the Nicaraguan Freedom Fighters. To support this scheme, he used Richard Miller, doing business as International Business Communications, Washington, D.C. as a reference. Based on this information, the WPB officer had the impression this was a secret Central Intelligence Agency operation.

Other investigation disclosed that in late 1984, Oliver North, National Security Council (NSC), was aware that Zadeh was interested in placing money at the disposal of the Nicaraguan Freedom Fighters. North directed Miller, who was performing contract work for the NSC, to meet Zadeh.

Miller was interviewed five times between June 10, 1985, and June 11, 1986, and related his belief that Zadeh was a Saudi prince, had monies in Europe, and was Vice President of the Arab National Bank. Miller acknowledged his association with the NSC. Investigation determined Miller's contact at NSC was Oliver North.

North was interviewed on July 18, 1985. Results were set forth in a teletype from the Washington Field Office (WFO) dated July 18, 1985 to FBI Headquarters (FBIHQ), New York, Philadelphia, and Sacramento. Efforts to locate this teletype at FBIHQ, Philadelphia and Sacramento have been unsuccessful to date. It was received at New York. North stated that Richard Miller had been doing contract work for NSC and the State Department for three years. Included in those activities were funneling of private funds to Nicaraguan Freedom Fighters who opposed the Sandinista government. North said that the NSC had some concerns regarding Zadeh's bona fides and the possibility of Zadeh's making a large donation to that cause. North stated he had no desire to interfere with a criminal investigation, but believed an FBI contact of Zadeh might reverse his decision to make a donation. North requested the FBI hold in abeyance the interview of Zadeh until after the week of July 22, 1985. North was advised his request would be passed on to FBIHQ. This request was set forth in the July 18, 1985, teletype which has not been located at FBIHQ. No delays were entertained by the Philadelphia or WFO Agents. Neither the Philadelphia Case Agent nor the Assistant United States Attorney (AUSA) assigned to this matter intended to interview Zadeh because they believed he might flee the United States prior to being charged. The investigation was not affected by the North request.

On July 30, 1985, in a self-initiated contact, North told WFO that Miller and Zadeh were in Europe arranging for funds to be transferred from Zadeh to the Nicaraguan Freedom Fighters and would return August 1, 1985. North claimed that Miller had attempt to contact WFO to arrange an interview of Zadeh.

The WFO teletype dated July 31, 1985, reporting this contact by North, was White-Collar Crimes Section's first knowledge of North's facilitating the channeling of funds to the Nicaraguan Freedom Fighters. This information was reviewed by the Financial Crimes Unit, White-Collar Crimes Section, Criminal Investigative Division, and was not disseminated further.

On September 12, 1985, WFO informed FBIHQ that Zadeh had been identified in fraud schemes and recommended that North be notified. White-Collar Crimes Section concurred and North was so advised on September 17, 1985 by the WFO Case Agent.

On April 29, 1986, Miller was served with a Federal grand jury subpoena to appear in Philadelphia on May 1, 1986.

Executive Assistant Director (EAD) Oliver B. Revell recalls receiving a telephone contact from Oliver North of the NSC during April 1986, during which North requested that EAD Revell attempt to postpone the appearance of Richard Miller before the Federal grand jury in Philadelphia. North requested that Miller's appearance be postponed for about ten days so as to avoid possible adverse impact on negotiations connected with the hostages in Lebanon.

EAD Revell determined from the White-Collar crimes Section, Criminal Investigative Division, that Miller was a witness in the William Penn bank fraud case and not a subject.

EAD Revell recalls contacting an Assistant United States Attorney in Philadelphia on a secure telephone line and requesting the postponement of Miller's appearance based on NSC's request. EAD Revell recalls determining from the AUSA that Miller's testimony would not include information regarding the hostages. The AUSA advised EAD Revell that another witness had mentioned part of the scheme was to cause the bank to believe some of the funds generated would be utilized in a secret Central Intelligence Agency operation in El Salvador. EAD Revell requested the AUSA to provide that information to the Philadelphia FBI.

The AUSA in Philadelphia recalls receiving the request for the postponement of Miller's appearance from EAD Revell on April 30, 1986. The AUSA advised that the postponement of Miller's appearance had previously been arranged through Miller's attorney.

On June 11, 1986, the Philadelphia Case Agent and the AUSA met with and interviewed Miller in the presence of his attorney in lieu of his appearing before the Federal grand jury.

On September 10, 1986, Zadeh was indicted by a Federal grand jury in Philadelphia for bank fraud and fraud by wire relating to the $210,000 loss at the William Penn Bank in Philadelphia. He was arrested at Fresno, California, that same date.

Zadeh pled guilty in Philadelphia on January 5, 1987, to one count of bank fraud and one count of fraud by wire. Zadeh also pled guilty to one count of bank fraud relating to a similar scheme at a bank in Fresno, California. Zadeh was sentenced on February 25, 1987, to five years in jail, fined $10,000 and ordered to pay $309,000 in restitution.

WFO reopened its Zadeh file on April 7, 1987, based upon Sacramento FBI teletype dated March 25, 1987, which requested investigation into a possible fraud involving Zadeh's spouse. The WFO Case Agent reviewed the file and noted the July 18, 1985 teletype relating to North and the Nicaraguan Freedom Fighters. A copy of this teletype was provided to FBIHQ on April 9, 1987.

All relevant information regarding this investigation has been made available to the staff of Independent Counsel Lawrence E. Walsh.

The Director of the FBI was not made aware of this investigation until April 13, 1987. With the exception of the outside contact to EAD Revell, this was a routine fraud investigation presenting no problem or issues requiring authorization or notification above Section Chief, White-Collar Crimes Section, Criminal Investigative Division level. This investigation and prosecution was not deterred or delayed by North's actions.

U.S. Department of Justice,
Federal Bureau of Investigation,
Washington, DC, April 17, 1987.

Hon. David L. Boren,
Chairman, Senate Select Committee on Intelligence,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: On April 14, 1987, I sent you a memorandum concerning a bank fraud investigation of Mousalreza Ebrahim Zadeh, also known as "The Prince." In that memorandum, Executive Assistant Director Oliver B. Revell recalled that, acting at the request of Lieutenant Colonel Oliver North, he contacted an Assistant United States Attorney in Philadelphia requesting the postponement of Richard Miller's appearance before a federal grand jury.

On April 16, 1987, Mr. Revell was interviewed by staff members of your Committee regarding this matter. At that time, he said he now recalls that he did not request a postponement of Mr. Miller's appearance. As your staff requested, Mr. Revell has prepared a letter reflecting his present recollection.

I am forwarding that letter to you so that it may be added to the record.

Sincerely,

William H. Webster,
Director.

Enclosure.

U.S. Department of Justice,
Federal Bureau of Investigation,
Washington, DC, April 17, 1987.

Hon. David L. Boren,
Chairman, Select Committee on Intelligence,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This letter will serve to confirm information provided by me to members of the committee staff on April 16, 1987. This amplifies and clarifies information from me originally reported to the committee by Director Webster's memorandum to you dated April 14, 1987.

On April 11, 1987, I received a telephone call from Special Agent Jeffrey J. Jamar, Chief of the White Collar Crime Section at FBI Headquarters. Mr. Jamar asked me if I recalled a situation that occurred in April 1986 where I had contacted him in regard to a fraud case in the Philadelphia Division about which I had received a call from Lt. Col. Oliver North of the National Security Council (NSC). I had no immediate recollection of the situation but upon further discussion with Mr. Jamar did recollect that in April 1986 I had received such a telephone call from Col. North. Col. North was at the time the senior NSC official charged with counterterrorism and hostage related issues.

Based on my present recollection, Col. North related that an individual by the name of Richard Miller, who had worked under contract for the NSC and State Department for some period of time on the hostage situation, had just received a subpoena from an FBI Agent to testify as a witness before a Federal Grand Jury in Philadelphia. Col. North advised that Miller was concerned that he might be asked questions about his involvement with the Government in regard to the hostages and that any such testimony before the Grand Jury might lead to public disclosure of ongoing issues in relation to the hostages being held in Lebanon. Col. North asked me if I could ascertain if the U.S. Attorney's (USA) office intended to inquire into Miller's involvement with the Government in regard to the hostage issue and, if so, if I could obtain a postponement in view of ongoing, sensitive negotiations connected with the hostages in Lebanon.

As Col. North had the specific responsibility to coordinate interagency activities in regard to the U.S. hostages and since the case in Philadelphia was an FBI matter, such a request by North was, in my view, entirely appropriate and not an intrusion into our investigative responsibilities. I had knowledge at that time of the extremely sensitive situation in Lebanon which included the death on April 17, 1986 of Peter Kilburn, one of the American hostages. I was aware of the extraordinary efforts being expended by the U.S. Government to obtain the release of the American hostages. Since Col. North's request did not in any way indicate an attempt to impede the investigation but only to insure that it would not inadvertently adversely impact on the hostage situation, I did not believe his request was inappropriate.

I contacted Mr. Jamar and asked that he ascertain if Mr. Miller had been served a subpoena by an FBI Agent to testify before a Grand Jury. Mr. Jamar subsequently advised me that a Richard Miller had been subpoened on behalf of a Grand Jury and that he was a witness. I told Mr. Jamar of Col. North's call to me and asked him to arrange a secure telephone call with the USA or Assistant U.S. Attorney (AUSA) handling the case in Philadelphia. Later that day I received a secure telephone call from AUSA Nicholas Harbist calling from the FBI Office in Philadelphia in response to my request. I related to AUSA Harbist that a high level official at the NSC had inquired as to whether or not Mr. Miller was going to be questioned during Grand Jury testimony concerning his involvement with the U.S. Government in regard to the hostages currently being held in Lebanon. I advised AUSA Harbist that the hostage situation was in a very sensitive state and there was concern that any Grand Jury inquiry might adversely impact on this situation. AUSA Harbist advised me that Miller was not the subject of the Grand Jury but was only a witness and that he had no intention of inquiring into Miller's involvement with the U.S. Government in regard to the hostages. I also advised AUSA Harbist that Mr. Miller was not authorized to commit any criminal acts on behalf of the U.S. Government.

AUSA Harbist also advised that the subject of the Grand Jury matter was alleged to have stated that he was involved with the CIA in an oil deal in El Salvador. I advised AUSA Harbist that I had no such information and that there was certainly no reason why he should not inquire into this area with Mr. Miller. AUSA Harbist then raised the possibility that the subject of the case Ebrahim Zadeh might raise Miller's involvement with the NSC as a defense tactic during his trial. I advised AUSA Harbist that was an issue that would have to be faced at that time but it should not be an impediment at this point. AUSA Harbist also advised me that Richard Miller's attorney had previously arranged a delay in this Grand Jury appearance and had agreed to make Miller available for interview and had indicated that Miller would cooperate.

As the USA's office did not intend to inquire into Richard Miller's involvement with the U.S. Government in the hostage situation and since my contact with the USA's office did not result in any action on behalf of the FBI or the NSC, I took no further action except to advise Col. North that Mr. Miller would not be asked to testify concerning his relationship with the U.S. Government and the hostage situation. Col. North did not ask for any further action and I took no further action in this regard. Mr. Miller subsequently cooperated with the Government and Zadeh was indicted in Philadelphia. Zadeh pled guilty and on February 25, 1987, he was sentenced to five years imprisonment, fined $10,000 and ordered to pay $309,000 in restitution.

On further reflection and careful review of relevant documents, I now recall that AUSA Harbist advised that the investigation would not deal with any matters relating to sensitive hostage negotiations. For that reason, it was not necessary for me to ask for a postponement and I did not do so. Since no action was taken, I did not bring this matter to the attention of the FBI Director, William H. Webster, nor did I consult with the Department of Justice. If any action had been taken based upon my contact with the USA's office, notification by me to Director Webster and the Department of Justice would have been in order.

At the time of this telephone call, Col. North was the NSC official charged by the President with the coordination of our national counterterrorist program. He was responsible for working closely with the designated lead agencies and was responsible for participating in all interagency groups, maintaining the national programming documents, assisting in the coordination of research and development in relation to counterterrorism, facilitating the development of response options and overseeing the implementation of the Vice President's Task Force on Combating Terrorism recommendations. This description of Col. North's position is set forth in the public report of the Vice President's Task Force on Combating Terrorism, February 1986. There is an even more detailed and comprehensive description of Col. North's position in the classified National Security Decision Directive #207 issued by the President on January 20, 1986.

During this particular period, that is April 1986, there was an extremely high level of activity in relation to international terrorism.

On April 2, 1986, a bomb exploded on TWA Flight 840 while approaching a landing in Athens, Greece. Four American citizens died in this bombing. In response, the FBI sent teams of investigators to Athens, Greece; Cairo, Egypt and Rome, Italy.

On April 5, 1986, a bomb exploded in the Labelle Disco in West Berlin. Two American servicemen were killed in this bombing and FBI Agents from our Legal Attache Office in Bonn responded to this incident and provided assistance to the Army Criminal Investigation Division and West Berlin authorities.

On April 14, 1986, in retaliation for the involvement of the Libyan Government in the Labelle Disco bombing, the United States initiated air strikes against military and terrorist targets in Libya. In response to this action, the FBI was on full alert for potential retaliation on the part of Libyan agents or other aligned terrorist groups.

On April 17, 1986, as previously mentioned, Peter C. Kilburn, an American hostage in Lebanon, was shot and killed. Mr. Kilburn had been the object of an intensive undercover operation carried out by the FBI, CIA and Royal Canadian Mounted Police to obtain his release.

On April 18, 1986, West German authorities arrested a Palestinian national as a suspect in the bombing of the Labelle Disco. The previous day, April 17, 1986, this Palestinian's brother had been arrested by British authorities in an attempt to bomb an El Al Boeing 747 aircraft on which 248 Americans were scheduled to fly to Israel. The FBI was directly involved with British Security and New Scotland Yard in carrying out an international investigation of this situation.

During April 1986, six Americans were known to be held hostage in Lebanon and we had reports that at least five international terrorist fugitives for whom the FBI had obtained arrest warrants were in Lebanon.

Because of the above-cited incidents, there were frequent secure telephone conversations between members of the Operations Sub Group (OSG) of the NSC which is charged with the interagency coordination of U.S. counterterrorism matters and in this context there were several telephone calls from Col. North to me. Therefore, the contact by Col. North in regard to a hostage related situation was not extraordinary or unusual.

Pertaining to another matter, during my interview by members of the committee staff on April 16, 1987, I was asked if I was familiar with news reports that an FBI document dealing with an alleged plot to assassinate the President of Honduras was in the possession of Col. North. I responded that I was not aware of any routine dissemination of FBI investigative reports to the NSC on the FBI investigation of the plot to assassinate former Honduran President Robert Suazo. I did advise that there were two meetings at the Old Executive Office Building in September and October, 1986, in regard to a request from the current President of Honduras Jose Azcona Hoyo to the White House to provide some type of relief to General Jose Bueso-Rosa. General Bueso-Rosa had pled guilty to two counts of Title 18, U.S. Code, Section 1952(a), Murder for Hire, and had been sentenced to five years custody on July 23, 1986. However, he had not been incarcerated as yet. These meetings were held at the office of Lt. Col. North and were attended by representatives of the Departments of State and Justice and on behalf of the FBI myself. The State Department was represented at the first meeting by Deputy Assistant Secretary James Michel and the second meeting by Assistant Secretary Elliott Abrams. The Justice Department was represented at the first meeting by Associate Attorney General Steve Trott and at the second meeting by Deputy Assistant Attorney General Mark Richard. I attended both meetings on behalf of the FBI.

During the course of these two meetings, the matter of the offense committed by General Jose Bueso-Rosa was discussed and possible ramifications of any action by the U.S. Government on behalf of the President of Honduras were discussed. Col. North and General Gorman advised that they had both received requests from the Honduran President ot obtain some type of relief for General Bueso-Rosa. Both also stated that Bueso-Rosa had been of substantial assistance to the U.S. Military during the time that General Gorman was Commander of SOUTHCOM. It was the recommendation of Messrs. Trott and Richard as well as myself that there be no intervention on behalf of General Bueso-Rosa on the part of the U.S. Government other than the relocation to a lower risk Federal facility in view of the Honduran President's concern over General Bueso-Rosa's safety if he was intermingled with high risk prisoners. Mr. Trott indicated that he would handle such a request with the Director of the Federal Bureau of Prisons.

Prior to the initial meeting on September 24, 1986, I had the Criminal Investigative Division prepare a synopsis of the FBI investigation of the plot to assassinate the President of Honduras for my use. I provided copies of that synopsis to other participants at that meeting for their information. As the Bureau investigation in this matter was complete, there was no reason that the individuals particpating in the meeting could not be made privy to the information contained in the case synopsis. To my knowledge, this is the only document on this case that has been provided to the White House or NSC. Director Webster and the officials of the Bureau's Criminal Investigative Division were fully briefed on these meetings and the action taken as a result thereof. There was no request for any action to be taken by the FBI.

Mr. Chairman, I believe that the above information fully divulges my knowledge of the two situations in which the committee had raised additional questions. However, if there are any further areas of concern, please be assured that I stand ready to promptly respond.

Sincerely,

OLIVER B. REVELL,
Executive Assistant Director, Investigations.

TEXT: VZCZCWFO11

June 1985.

From: SAC, Washington Field (29A-5504) (C-5) (P).
To; Director, FBI—rountine.
(Attn: George Love, Financial Crimes Unit, Criminal Investigative Division).
FBI, Philadelphia (29A-7374) (SQ 9).
FBI, New York—rountine.
BT.
UNCLAS.

Edwin Weiss: attempted theft of $500,000 from William Penn Bank, Philadelphia, Pennsylvania—victim; BF&E (A); (OO:PH)

Re PH Teletype to New York, 6/11/85.

For information of the Bureau, in referenced teletype PH advised that Prince Ebrohin Bin Abdal-Aziz Bin Saud L-Masoudy, a reported member of the Saudi Arabian royal family negotiated a fraudulent $250,000 check at victim bank which resulted in $240,000 being wired to a west coast account.

On 6/10/85, Richard A. Miller, President, International Business Communications, 1607 New Hampshire Avenue, NW, WDC, contacted William Penn Bank to negotiate repayment of the $240,000 fraudulently obtained by the prince. In addition, Miller stated the Prince knows special agent "Bill" Beisner, WFO and that the Prince is closely associated with the National Security Conference, (NSC), WDC.

On 6/19/85, special agent "David Beisner, WFO advised he had recently interviewed Richard Miller in connection with attempts by Nicaraguan security agents to gain information from Miller. Miller operates a legitimate business and also does contract work for both NSC and the US Department of State. Miller holds a U.S. Government "top secret" clearance. In connection with this attempted penetration of Miller, SA Beisner interviewed Miller's contact at NSC, Marine Colonel Aldie North.

SA Beisner advised he has never met or heard of Prince Ebrahin Bin Abdal-Aziz Bin Saud L-Mosoudy, and SA Beisner suspects that Miller may have been "name dropping" in order to extricate the Prince from his situation in Philadelphia. SA Beisner notes; however, that due to Miller's confirmed relationship with NSC, it is possible that the Prince also has contact with NSC.

SA Beisner stated the individual to contact at NSC regarding the Prince is Oliver North, telephone (202) 395-3345.

For information of Philadelphia, in review of WFO file WF 87-22370, it was determined that Erwin Weiss, believed identifiable with captioned subject, was convicted on 8/28/75 of nine counts of ITSP in Philadelphia, Pennsylvania. Philadelphia file in this investigation is 87-22370.

Request of the Bureau.

In view of the possibility that Prince Ebrahin Bin Abdal-Aziz Bin Saud L-Masoudy has contact with the NSC and is related to the Saudi Arabian royal family, Bureau authority is being requested to interview NSC official Oliver North regarding the Princes' NSC connection and reported criminal activty in connection with captioned matter.

TEXT: VZCZCWFO33

July 1985.

From, SAC, Washington Field Offie (29-5504) (C-5) (P)
To, Director, FBI—priority
Attn: SSA George Lane, Financial Crimes Unit, Criminal Investigative Division.
ADIC, New York—routine.
SAC, Philadelphia (29A-7374) 9SQ 9) priority.
SAC, Sacramento—Routine.

William Penn Bank, 230 South Broad Street, Philadelphia, PA.

Re Bureau Teletype to WFO, 6/28/85.

For information of the Bureau and receiving offices, on 7/18/85, Oliver North, National Security Counsel (NSC), Old Executive Office Building, 17th and Pennsylvania, Avenue, NW, WDC, telephone (202) 395-3345, advised as follows:

Richard R. Miller, President, International Business Communications, 1607 New Hampshire Avenue, NW, WCD, has been doing confidential contract and consultant work for NSC and U.S. Department of State for the approximate past 3 years. Miller's work concerns the funnelling of private funds to Nicaraguan Freedom Fighters who oppose the Sandinista Government. Following sets forth Miller's relationship to captioned matter:

At the approximate time of the planned secret U.S. invasion of Grenada, North was contacted by Kevin Kattke (true spelling) DBA Wear and Associates, 111 Broadway, Suite 2103, New York, NY. Kattke advised North that he (Kattke) represented a Grenadian student group who were contemplating an overthrow of the Communist leaning Government of Grenada. Through checking with NSC Sources, North determined that Kattke was a "right wing idealogue" known to frequently contact U.S. Government defense and security agencies for a variety of causes. North characterized Kattke as like a "rouge CIA agent" who has no identifiable ties with the U.S. Government.

During some later point in 1984, Kattke recontacted North to advise that he represented a member of the Saudi Arabian royal family, Prince Ebrohin Bi Abdul-Aziz Bi Saud L-Masoudy (hereafter the Prince). The Prince was allegedly interested in placing a large sum of money to the disposal of the Nicaraguan Freedom Fighters. North advised Kattke that inasmuch as U.S. public law forbid expenditures of Government funds to aid Nicaraguan insurgants, it was inadvisable for a member of the NSC (North) to meet with the Prince directly. North advised Kattke that Richard Miller would contact Kattke to meet the Prince. Kattke insisted that all contact with the Prince be through him.

Following Kattke's contact, North caused a check to be made of available information in the public domain regarding the official royal Saudi family and no information located was identifiable with the Prince. North could not state whether this check was all inclusive. The Prince has mandated that no inquiry be made of his status through the Saudi Arabian Government.

Information regarding the Prince's expressed interest in donating to the Nicaraguan Freedom Fighters was discussed by North personally with Presidnet Ronald Reagan and National Security adviser Robert MacFarlane as recently as June, 1985.

Since Miller's contact with the Prince through Kattke, the Prince has thus far failed to place funds in the hands of Nicaraguan Freedom Fighters as originally offered. There is some question and reservation, at NSC to the Prince's bona fides and 7/26/85, has been informally set by NSC as the date for the Prince to follow through or not. North confidentially advised that NSC maintained indirect contact with the Prince this lengthy period of time due to the desperate need of private funds by Nicaraguan Freedom Fighters since being cut off from U.S. funding. The U.S. Congress is expected to approve new funding of 38 million dollars to this group during the week of 7/22/85.

In June, 1985, Miller, at the request of Kattke and the knowledge of North, contacted the William Penn Bank, Philadelphia, PA. regarding captioned matter. Miller has maintained contact with North regarding this matter continually up to 7/15/85, including advising North of Miller's interview by FBI, Philadelphia. Miller maintains that he has done nothing illegal in contacting the bank.

Miller advised North the Prince is allegedly out of favor with the Saudi Government due to his Shiite Moslem faith as the majority of the Saudi royal family are of the Sunni Moslem faith. Miller believes or has been led to believe by the Prince that the Prince's $250,000 check was not cleared by the Saudi French bank due to these religious differences.

During Miller's 7/15/85 contact with North, Miller advised North that the Prince is currently residing in WDC. North specifically requested that attempts by the FBI to interview the Prince be held in abeyance until after the week of 7/22/85 due to the critical timing of the Prince's possible but remote large donation to the Nicaraguan Freedom Fighters. In no way does North want to interfere with a criminal investigation of the Prince, but North feels that contact by the FBI prior to NSC determination of the Prince's intentions may reverse any possibility that the Prince will follow through with his expressed intention to donate this money. North was advised that his request would be known to FBI.

Bureau requested to advise WFO whether to hold in abeyance attempts to interview the Prince until after the week of 7/22/85 as requested by oliver North, NSC.

TEXT: VZCZCWFO42

July 31, 1985.

From: SAC, Washington Field (29A-5504) (C-5) (P)
To: Director, FBI—Routine.
Attn: SSA George Tone, Financial Crimes Unit, Criminal Investigative Division.

William Penn Bonk, 230 South Broad Street, Philadelphia, Pennsylvania.

RE WFO Tel to BU, 7/1/8/85.

For information of Bureau and receiving offices, on 7/30/85, Oliver North, National Security Council, Washington, D.C. (WDC), advised WFO that Richard Miller and Prince Ebrohin Bin Abdul-Aziz Bin Saud L-Masoudy (hereafter the Prince) are currently in Europe reportedly arranging transfer of funds from the Prince to Nicaraguan Freedomn Fighters as set forth in referenced tel. North stated that Miller had allegedly attempted to contact WFO recently for purposes of arranging an interview with the Prince pertaining to captioned matter. No records at WFO have been located to indicate contact by Miller. Miller and the Prince are expected to return to WDC on 8-1-85. North was advised that WFO intended to contact Miller for purposes of locating and interviewing the Prince at the earliest possible date.

TEXT: VZCZCHQO142

March 1987.

From: Director FBI
To: FBI Miami routine, FBI Washington field office routine
Unclas.

Ebrahim Zadeh, et al, BF & E (B), 00: Sacramento.

Re Sacramento Airtel to Director, dated March 5, 1987.

FBI, Sacramento advised by teletype dated 3/25/87 as follows:

Referenced Airtel included LHM and background information and set leads for Miami and WFO.

The following is being provided for additional background information for case agents.

For case agents at Miami, additional interviews conducted at Fresno determined that the alleged source of the $1 million certificate of deposit drawn on European Overseas Bank may be operating in the Miami area under the name of Bancvest.

It has been determined that Luis Gasparini purchased tickets for travel from Fresno, California to Los Angeles and London to Cypress from Worldwide Discount Travel, 2350 URD Road, Office 306, Coral Gables, Florida, telephone (305) 446-0951.

For lead agent at WFO, subject Motlagh Contestable has claimed that the letters of credit drawn on Mediterrean Merchant Bankers could be handled in or guaranteed by a correspondent bank, National Bank of Washington, D.C.

Leads: Miami division at Coral Gables, Florida:

Will interview travel agent, Louis (last name unknown) at Worldwide Travel Discount regarding identity of Gasparini and obtain appropriate identifying and background information if available

Washington field office at Washington, D.C.:

* * * of Washington, D.C. determine if, in fact, it is a correspondent bank of Mediterrean Merchant Bankers, is aware of the existence and legitimacy of the documents provided in the referenced communication, and determine the identity of captioned subjects Gasparini and contestable. It is possible that the * * *.

TEXT: VZCZCWFO52

September 1985.

From: SAC, Washington Field (29A-5504) (C-5) (P).
To: Director, FBI—routine
Attn: Financial Crimes Unit. Criminal Investigative Div.
FBI, Philadelphia (29A-7374)—routine
FBI, Sacramento (28A-2251)—routine

William Penn Bank. 280 South Broad Street. Philadelphia. Penn.: BE&E (A): MF; WF: 00:PH: Mousalreza Ebrahim Zadeh. AKA Ebrahim R. Zadeh. Et al: BF&E; FBW: 00: Sacramento.

RE WFO teletype to Bureau dated 8/18/85.

Sacramento teletype to Baltimore. 9/5/85; WFO telephone call to Philadelphia SA Gary Norby. 9/12/85: WFO telephone call to FBIHQ Supervisor George Lane. 9/12/85; and WFO Airtel to Philadephia. 9/12/85.

Referenced Sacramento teletype requested WFO interview individual at International Business Communications (IBC). Washington. D.C. (WDC), who sent two wire transfers from National Bank of Washington (NBW). WDC, to Moniereit Shokai-M, wife of Sacramento subject. From previous investigation, WFO believes this individual is Richard Miller. President of IBC. and a close associate of Sacramento subject. WFO will interview Miller regarding these wire transfers.

In referenced WFO telephone call to Philadelphia. WFO was advised that alleged Saudi Arabian Prince Ebrohin Bin Adual-Aziz Bin Saud L-Masoudy (hereafter the Prince) has been positively identified as an Iranian who has attempted to defraud several U.S. banks in a manner similar to that as effected by the Prince on William Penn Bank. The Prince is also identical to Sacramento captioned subject.

In referenced WFO telephone call to Bureau. Bureau was advised that the Prince has been identified as a fraud and that WFO felt it advisable to notify Oliver North, National Security Conference (NSC). WDC, of this determination due to information previously provided by North as set forth in referenced WFO teletype to Bureau, 6/19/85. WFO was advised by Bureau thatr inasmuch as prior Bureau permission had been obtained by WFO for initial contact with North, WFO would recontact North, and so advise him of the Prince's fraudulent background and allegations of criminal conduct.

On 8/17/85. WFO contacted Oliver North. NSC, and advised North of supra information.

Lead. WFO at Washington. D.C. will interview Richard Miller. IBC. regarding wire transfers from IBC to Moniereh Shokri-M

[Memorandum]

May 1, 1986.

Re conversation with Buck Revell, Washington, D.C. concerning Target Ebrahim Zadeh.
To Edward S.G. Dennis, Jr.
From: Nicholas C. Harbist, AUSA.

On April 30, 1986, at the request of the FBI Case Agent, I spoke to Buck Revell concerning Grand Jury Subpoenas which were issued to Richard Miller. Miller is the President of International Business Communications located in Washington, D.C., and is a potential witness in this case. Revell told me that Miller was used by high level officials in the Whitehouse and National Security Counsel (NSC) to contact Zadeh concerning information he might have on the hostages currently held in Beirut. Revell explained that this was a sensitive matter because the hostages are still being held and efforts are being made to obtain their release. He inquired whether I intended to question Miller concerning this subject in the Grand Jury. He also informed me that Miller was not authorized by the FBI or NSC to commit any criminal acts during the period of cooperation.

I told Revell that Miller was not a subject of the Grand Jury Investigation, but a witness to certain events involving the presentation of a fraudulent check to the William Penn Bank in Philadelphia by the Target. I told him that my knowledge of Miller's involvement in the potential resolution of the hostage situation was limited to intelligence information in the FBI files. I informed him that this information was not relevant to the Grand Jury's investigation and that I did not plan to question Miller on this matter during his Grand Jury testimony. This was acceptable to Revell.

[Rule 6E Grand Jury material deleted.]

I advised Revell that when this case is indicted, Zadeh's attorney may bring up Miller's involvement with the NSC or Whitehouse officials concerning the Beirut hostages as a defense tactic. Revell suggested that we cross that bridge when we come to it.

[Rule 6E Grand Jury material deleted.]

U.S. Department of Justice,
Federal Bureau of Investigation,
Washington, D.C., April 22, 1987.

Hon. David L. Boren,
Chairman, Senate Select Committee on Intelligence,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: In a recent conversation with Assistant Director William M. Baker, Sven Holmes and other members of your Committee staff requested that we respond to allegations made in the April 20, 1987, issue of Newsweek and the April 15, 1987, issue of the Philadelphia Inquirer that the FBI furnished documents about Contra activities to Lieutenant Colonel Oliver North.

The results of an internal inquiry into this matter by the FBI are furnished in the attached memorandum.

Please don't hesitate to contact me if I can be of any further assistance.

Sincerely,

William H. Webster,
Director.
(By) Anthony E. Daniel.

Enclosure.

JIM ADAIR, NEUTRALITY MATTERS, NICARAGUA

In response to reports appearing in the April 20, 1987, issue of *Newsweek* and the April 15, 1987, *Philadelphia Inquirer*, alleging the FBI furnished LTC Oliver L. North with documents about Contra activities, an internal inquiry was instituted by FBI Headquarters (FBIHQ).

BASIS FOR CAPTIONED INVESTIGATION

A review of available information reveals that on December 28, 1984, the U.S. Department of State (USDS) advised the FBI they received a call on December 21, 1984, from Larry Spivey who said he was producing a television documentary entitled "Victims for Victims" which would deal with American citizen military involvement in Nicaragua. According to the USDS, Spivey had information concerning the plans of a group of private American citizens who were planning a "dramatic action" against the Government of Nicaragua. The person mentioned by Spivey as the source of his information was one Jim Adair of Houston, Texas. The Civilian Military Assistance (CMA) Group, located in Alabama, was also mentioned by Spivey during his recitation of events dealing with possible actions against the Government of Nicaragua.

In response to the above USDS report, the FBI, after receiving authorization from the U.S. Department of Justice (DOJ), instituted a Neutrality Act investigation. A teletype was transmitted to Los Angeles, FBI, on December 28, 1984, requesting the interview of Larry Spivey. Houston, FBI, was requested to check the name Jim Adair through their office indices and to initiate appropriate agency checks. In addition, the above information was also furnished to the FBI in Birmingham, Alabama, inasmuch as CMA was known to be headquartered in Decatur, Alabama.

INVESTIGATION BY LOS ANGELES FIELD OFFICE

On January 5, 1985, Special Agent (SA) Michael N. Boone, Los Angeles, FBI, the investigator assigned to this case, transmitted a teletype to FBIHQ, Birmingham, Houston, and Miami Field Offices reporting that he received a telephone call from Spivey who was calling from Florida. Spivey furnished additional details concerning the proposed action in Nicaragua. He named the principal planners as Tom Posey and a man known only to him as Colonel Flaco (phonetic). Spivey related that Posey had informed him that an armed invasion of Nicaragua was to be launched from Costa Rica culminating with the establishment of a provisional government in opposition to the Sandinista regime. He further advised that Posey had met with Adolfo Calero, who was characterized as a leader of the Contra movement.

Spivey commented that he had related much of this information to Oliver North of the National Security Council (NSC). According to Spivey, North was concerned that such an action in Nicaragua could cause serious foreign policy damage and that it was highly likely any poorly organized action would be foiled, resulting in the possible capture of United States citizens in Nicaragua which would be contrary to national policy.

SA BOONE CONTACTED BY LT. COL. NORTH

The January 5, 1985, Los Angeles teletype referred to above, noted that SA Boone had been telephonically contacted by Oliver North. North advised he had been in contact with Adolfo Calero who was not in favor of the planned invasion, stating such activities would do extreme damage to the Contra movement. Calero further advised that many of these men were very dangerous and misdirected and that Colonel Flaco was an extreme personality and was moving the group in the wrong direction. Calero advised, according to North, that Colonel Flaco and many of the other participants had weapons, some of which appeared to be illegal. North requested that no mention be made of Calero in connection with this matter due to the sensitive nature of his association with the U.S. Government.

On April 15, 1987, SA Boone was contacted by FBIHQ and requested to recount his discussion with Oliver North conerning this matter. SA Boone recalled he was contacted by Oliver North on or about January 5, 1985. SA Boone commented that he regarded such contact as highly unusual and was not certain at the time that the caller was genuine. In order to confirm his identity, North provided SA Boone with a telephone number and requested that SA Boone recontact him on that number. SA Boone did so and determined that this telephone number was in fact the White House switchboard number. During this recontact, North requested an update of the investigation. North also wanted to confirm that the FBI was investigating this matter, emphasizing that these reported plans regarding Nicaragua were contrary to the White House policy. SA Boone was under the impression that North wanted to be certain the FBI was investigating this matter in an effort to interdict the group's activities. North stated he would report any additional information he might receive to the FBI.

INVESTIGATION BY FBI MIAMI

In response to the January 5, 1985, Los Angeles teletype sent by SA Boone, the Miami Field Office contacted Larry Spivey and conducted other investigations in this matter. Additional details concerning the plans of the subjects of this case regarding Nicaragua were established. Posey, and others, were interviewed.

SA George Kiszynski, who was the Miami Agent assigned to this investigation in 1985, advised FBIHQ on April 15, 1987 that he has never directly communicated with LTC Oliver North.

DISSEMINATION TO NSC

The Miami Field Office reported the results of its investigation in this case to FBIHQ via teletype on January 8, 1985, with copies to the Los Angeles, Birmingham, Houston, and New Orleans Field Offices. In view of the concern of Oliver North in this matter, which Miami had discerned from the January 5, 1985, Los Angeles teletype, Miami requested the substance of their teletype be relayed to Oliver North of the NSC by FBIHQ.

In addition, a teletype was transmitted to FBIHQ by FBI, Houston, on January 10, 1985, reporting a January 9, 1985, interview of James Bynum Adair of Missouri City, Texas, the subject of this neutrality investigation.

A review of files indicates that the January 8, 1985 Miami teletype and the January 10, 1985 Houston teletype were disseminated to the NSC by FBIHQ Supervisory Special Agent (SSA) John J. Newman.

When questioned about this dissemination on April 15, 1987, SSA Newman advised it was his judgment at the time that the information contained in the two communications could have been of use to the NSC for foreign policy considerations and elected to effect dissemination. SSA Newman stated he could recall no personal contact with Oliver North.

An informative note dated January 8, 1985 summarizing the contents of the Miami teletype of that same date and enclosing a copy of the communication was sent to the Director, who initiated it to the file. The note indicated that the Miami teletype was being disseminated to several Federal agencies including the NSC, without reference to Lt. Col. North.

The neutrality investigation of Jim Adair was closed by the Houston FBI Office on September 12, 1985. A letterhead memorandum dated October 17, 1985 summarizing the results of that investigation was disseminated by FBIHQ to several Federal agencies including the NSC, without reference to Lt. Col. North. SSA Paul Lorenzetti, who was then a Supervisor at FBIHQ, advised on April 20, 1985 that he disseminated this document to the NSC because it was consistent with prior handling of communications in this case.

A review of the Adair file at FBIHQ conducted to date has not disclosed any dissemination of communications to the NSC or to Lt. Col. North other than the above described documents.

Chairman BOREN. Again, our primary reason for this hearing was to allow an opportunity for additional questions that have arisen from the earlier hearings.

We welcome you back. We remind you that you are still under oath from the earlier hearings, as this is a continuation of our earlier proceedings.

Judge WEBSTER. I understand; fine.

Chairman BOREN. Unless you have some opening remarks, I would like to begin with the questions about the incident you reported to the Committee in your letter of April 13th. Would you like to make any opening remarks at this time?

Judge WEBSTER. No, thank you. I am ready to go.

Chairman BOREN. The matters which we are discussing today relate to the memorandum which you sent to me on April 13th dealing with an investigation conducted by the field office into allegations received from the Federal Reserve concerning various fraudulent activities affecting the William Penn Bank of Philadelphia, Pennsylvania, resulting in an FBI investigation beginning May 8, 1985. One investigation involved a $250,000 check drawn on a closed account at the Saudi French Bank in Saudi Arabia, by one Mousalreza Ebrahim Zadeh, known as "The Prince." I'll refer to him as the Prince from now on. [General laughter.]

The investigation disclosed that Zadeh represented himself to the bank as a Saudi Arabian commodities dealer, banker, and member of the Saudi royal family. In the course of this investigation, the Prince is determined to have some connection with efforts to raise private funding for the Contras in Nicaragua. Richard Miller, a consultant to the National Security Council, on June 10, 1985, told an FBI agent in Philadelphia that the Prince was associated with the National Security Council.

In the course of this investigation by the field staff, on June 19, 1985, according to the records, the Washington Field Office Agent requested permission from headquarters to interview Colonel North at the White House, as Mr. Miller had indicated that he was reporting to Colonel North on the efforts to solicit funds from the Prince for aid to the Nicaraguan contras. And on July 18, 1985, the Field Office Agent did interview Colonel North and sent a report of that interview to Philadelphia, New York, Sacramento and headquarters here. The teletype was apparently received only in New York.

I would like to quote briefly. The full text of the report has been entered into the record, but the debriefing report of the interview with Colonel North submitted in this cable has indicated that, be advised as follows: That Richard Miller, president of the International Business Communications, Washington, D.C., has been doing confidential contract and consultant work for the National Security Council and the U.S. Department of State for the approximate past 3 years. Miller's work concerns the funneling of private funds to Nicaraguan freedom fighters who oppose the Sandinista government. The following sets forth Miller's relationship to the captioned matter.

At the approximate time of the planned secret U.S. invasion of Grenada, North was contacted by Kevin Kattke, I believe, doing business as Wear and Associates of New York, who advised North that he represented a Grenadian student group who were contemplating an overthrow of the communist leaning government of Grenada. Through checking with NSC sources, North determined that Kattke was a right wing ideologue known to frequently contact U.S. government defense and security agencies for a variety of causes. North characterized him as like, "a rogue CIA agent" who has no identifiable ties with the United States government.

During some later point in 1984, Kattke recontacted North to advise that he represented a member of the Saudi Arabian royal family, this so-called Prince. The Prince was allegedly interested in placing a large sum of money at the disposal of the Nicaraguan freedom fighters. I might say that later in the investigation it was determined that the Prince was not a member of the Saudi royal family; indeed, that he was not Saudi Arabian, but in fact Iranian, and that the way he represented himself was a total misrepresentation.

Continuing to quote from the report on the North interview, the Prince was allegedly interested, according to Colonel North, in placing a large sum of money at the disposal of the Nicaraguan freedom fighters. North advised Kattke that inasmuch as U.S. public law forbade expenditures of government funds to aid Nicaraguan insurgents, it was inadvisable for a member of the NSC—that is, North—to meet with the Prince directly. North advised Kattke that Richard Miller—again, I would say that this is the same Richard Miller that North has identified as an NSC paid consultant—that Richard Miller would contact Kattke to meet the Prince. Kattke insisted that all contact with the Prince be through him.

Following Kattke's contact, North caused a check to be made of available information in the public domain regarding the official royal Saudi family and no information located was identifiable with the Prince. North could not state whether this check was at all inclusive. The Prince has mandated that no inquiry be made of this status through the Saudi Arabian government.

Information regarding the Prince's expressed interest in donating to the Nicaraguan freedom fighters was discussed by North personally with President Ronald Reagan and National Security Advisor Robert McFarlane as recently as June of 1985. That is according to North—according to the report of the interview with North.

The remainder of the report is in the record.

After this interview report with North was made and it was in the Washington field office—as I say, it was received only in New York—it apparently was not received at headquarters because copies have not been located at headquarters—a Washington field office agent reported to headquarters on a telephone conversation with Colonel North about Miller and the Prince. They were attempting to locate the Prince to interview him, and Colonel North was reporting to the agent that they were both out of the country and he was unable to get them in for an interview at the time.

Then on September 12, 1985, the Washington field office agent learned that the Prince was an Iranian linked to similar frauds. He phoned headquarters in Washington for approval to notify North of the conclusion that this was not a Prince, that this was an Iranian who has been linked to fraudulent activity.

On September 17, 1985, the Washington field office agent reported to headquarters and to Philadelphia that he had notified Colonel North of the feeling that this man was linked to fraud and that he was not a member of the Saudi family and was, in fact, an Iranian. That is what occurred in 1985.

Then, in 1986, on April 30th, according to the chronology, Mr. Revell, the Deputy Director, contacted the Assistant U.S. Attorney in Philadelphia to discuss possible testimony by Miller in a case against the Prince pending before a grand jury.

In the earlier memo which you sent to the committee on the 13th of April you cited that Mr. Revell recalled that he had at that time asked that a delay be made in calling Mr. Miller to testify, that he had made this request of the Assistant U.S. Attorney and that the Assistant U.S. Attorney remembered that a request for a delay in calling Mr. Miller had been made.

Then on the 17th you sent me another letter, including a letter by Mr. Revell in which he indicated that he had, on further recollection, found that he had not requested a delay in Mr. Miller appearing. The matter had become moot because when he talked to the Assistant U.S. Attorney, he was informed that they had not planned to call Mr. Miller as a witness before the grand jury to discuss any ties that he might have with the NSC. They were simply going to interview Mr. Miller separately, and unless the matter was raised as a defense by the attorneys of the Prince, it was not anticipated that any discussion of Mr. Miller's ties to the NSC or any relationship of the Prince with the NSC would be brought forward.

Then after that, there was in fact later an indictment of the Prince for bank fraud on September 10, 1986. January 5, 1987, he pleaded guilty to bank fraud in Philadelphia and California. March 26, 1987, I believe, the Washington field office got a lead from Sacramento and an investigation of the wife of the Prince had caused the file to be looked at again at the Washington field office. In looking at the files, the Washington field office discovered the July 18, 1985, interview of Colonel North. I believe it was at that time, after the discovery by the Washington field office, that word of this discovery was passed up through channels and it reached headquarters, ultimately reaching you as Director.

First of all, as I have recited this chronology, does it sound basically correct in terms of your understanding of what took place?

Judge **Webster**. Yes, it is, Mr. Chairman. It is consistent with my understanding and my review of the documents involved.

Chairman **Boren**. Am I correct in saying that you did not become aware of the either the interview of Colonel North at the White House on July 18, 1985, or the telephone conversation of an

FBI agent with Colonel North on July 31, 1985 until just the last few days—in April of 1987?

Judge **Webster**. That is correct, Mr. Chairman.

Chairman **Boren**. Am I also correct that you were not aware that Deputy Director Revell had been called by Colonel North who requested that he contact the U.S. Attorney in Pennsylvania to discuss the possibility of whether Mr. Miller would be called as a witness before the Grand Jury?

Judge **Webster**. That's correct, Mr. Chairman.

Chairman **Boren**. When were you first made aware of the fact that Colonel North had called Mr. Revell and that Mr. Revell had had this conversation with the Assistant U.S. Attorney in Pennsylvania?

Judge **Webster**. I was first made aware of it on the morning of April 13th, which is the same day that I directed my letter to you reporting the incident.

Chairman **Boren**. How would it have been possible, considering the sensitivity of this matter, as we look back on the face of the reports, and I quoted from part of the interview with Colonel North where he says quite clearly that a paid consultant of the National Security Council was here, in essence, on his instruction to meet with someone to discuss raising money for the Contras. That, at least, was getting into a dangerous area of potential illegality. I would believe that would be the proper way of phrasing it.

How could it be that an FBI interview of a person of the level of Colonel North take place at the White House, with permission granted by the FBI headquarters to conduct such an interview, would not have been brought to your attention?

Judge **Webster**. Well, the first interview, I guess that you are talking about, the one in 1986, was properly recorded by the Washington field office which is not a part of the headquarters organization, and transmitted by teletype promptly to FBI headquarters along with requests for further dissemination to offices other than New York which received the information simultaneously.

We had an unusual technological failure. We were changing over from one form of teletype to another and during the period of transition, it was not possible to transmit copies to offices which did not yet have the new system. New York had the new system, and that's why they got the copy through the new system.

The FBI headquarters was requested to transmit additional copies to the other offices. It appears from our review of the circumstances and discussions with those in charge of the teletype system that the transcription of the teletype was garbled as it came in and was rejected with instructions to retransmit.

Now that is according to an established procedure. We don't have that nailed down in writing, but all the technical people are satisified for a number of reasons that that is exactly what happened.

We now are on a new system, and I have questioned them about the chances that this could occur again, and have recently given instructions to go through that process again to take additional precautions to be sure that rejected transcriptions are in fact resubmitted.

I have a short 2-page technical explanation of what happened, and I asked Mr. Elliff to make copies of it and make it available to you. But I'm giving it to you in layman's language which is probably the only way I can understand how it occurred.

Chairman **Boren**. This is not a classified document in any way. We will receive this document fully and print the full text of the document in the record at this point.

[The document referred to follows:]

PROCESSING OF TELETYPE DATED JULY 18, 1985, CAPTIONED "MOUSALREZA EBRAHIM ZADEK; AKA, "THE PRINCE," PRINCE IBRAHIM AL MASOUD, ET AL.; BANK FRAUD AND EMBEZZLEMENT," FROM THE WASHINGTON FIELD OFFICE TO FBI HEADQUARTERS (FBIHQ) AND THREE OTHER OFFICES

The teletype, which mentioned Oliver North, was transmitted at 5:22 p.m., with FBIHQ, New York, Philadelphia, and Sacramento as the intended recipients. Hard copies of this communication appear in Washington Field and New York files; there is no record of receipt by the other intended recipients. The following is the likely scenario of events:

> Washington Field, FBIHQ, New York were using the then new automated teletype system (SAMNET). Philadelphia and Sacremento were using the old teletype system (ASTS).
>
> The teletype was, in fact, transmitted to at least New York. Since the message header (which indicates recipients for automated SAMNET routing purposes) has been removed from the hard copies (a common practice), verification of receipt by FBIHQ is not now possible.
>
> Both the Washington Field and New York copies show end-of-line strikeovers in the text, indicating that the teletype operator at Washington Field failed to hit the carriage return when required. As a consequence, a portion of the text has been lost.
>
> Written procedures at FBIHQ, then and now, require the operator receiving the message in the Communications Center to send a "service message" to the sending office, immediately advising them of the discrepancy and directing them to retransmit the message. Since this is standard operating procedure which is carried out routinely on a daily basis, we presume this occurred. We cannot verify this since messages (including service messages) are retained for only 14 days and the log tape (an automated chronological record of system transactions) is retained for only one year.
>
> At the time in question, the FBI was in a transition period where teletypes were being processed for some offices by SAMNET and others by ASTS. Had the message been correctly prepared, FBIHQ Communications Center would have retransmitted it over the ASTS system to Philadelphia and Sacremento, concurrently routing the original copy of the incoming communication from Washington Field, as well as any necessary tickler copies, to the FBIHQ division handling the substantive matter—in this case, the Criminal Investigative Division.
>
> Assuming an appropriate service message was prepared and transmitted to Washington Field by the FBIHQ Communications Center, the onus would shift to Washington Field to prepare and retransmit a new, corrected, message. There is no indication that this took place (otherwise New York should have received a second message and retained it, destroying the original faulty transmission). It cannot be stated, however, that Washington Field did not send a new, corrected message since message copies and log tapes have been destroyed; Washington Field could have failed, on the retransmission, to specify New York as a recipient; and New York could simply have destroyed the second message believing it a duplicate.

SAMNET is now fully operational in all field offices; therefore, under the known facts in this case, each indicated recipient office would have received the teletype, albeit a teletype with a garble, provided the operator correctly specified all recipient offices indicated in the text of the teletype. To preclude the possibility of future such errors we have published new procedures which:

> Fix responsibility on the operator of the sending office to check the message header and assure conformance with the indicated recipients listed in the body of the teletype.
>
> Establish an administrative control at FBIHQ and field Communications Centers so that a tickler copy of such service messages is retained until corrective action is taken by the sending office and a follow-up procedure is instituted in the event that corrective action is not taken in a reasonable time.

> When full functionality of SAMNET is achieved in the Summer of 1987, there will be an automated procedure in place to match message headings with recipients set forth in the message text to preclude any variance.

Judge **Webster**. But as a result of that, the document was lost at headquarters where it would have had significance in terms of the matters that you raised with me just now.

Chairman **Boren**. Let me ask, in terms of your statements in the April 13th letter to me, you indicated that I believe that Mr. Revell recalled that he had asked for a delay. Let me read this—Mr. Revell recalls, I quote, "contacting and Assistant U.S. Attorney in Philadelphia on a secure telephone line and requesting the postponement of Miller's appearance based on the NSC's request." And then you state also the Assistant U.S. Attorney in Philadelphia recalls receiving the request for postponement of Miller's appearance from Mr. Revell on April 30, 1986.

On what basis did you report that recollection?

Judge **Webster**. Mr. Jeff Jamar, the Section Chief in charge of the White Collar Crime Section of the Criminal Division, interviewed Mr. Revell and the Assistant U.S. Attorney over the weekend and this was his recollection of what they had each said to him.

Subsequently, we obtained a copy of the file memorandum which the Assistant United States Attorney had placed in the file at the time of Mr. Revell's call to him in April 1986. This was made available to Mr. Revell and caused him to refresh his memory as to what actually had taken place.

He told me, in fact, that he had lost some sleep when this thing came up trying to recall why he had not informed me as he says he certainly would have had he made such a request of the U.S. Attorney.

Chairman **Boren**. Is it normal procedure for the Deputy Director to have conversations with U.S. Attorneys on matters involving requests from the NSC about what witnesses will be called and when they will be called without notifying you as Director?

Judge **Webster**. No, I can't say that it is normal, Mr. Chairman. And in fact it is extremely rare. I can't think of another instance where this occurred in my experience to have such a request and to have it go forward.

It is the kind of thing that I would expect to be advised of. I would prefer to be advised of it in advance. I spoke to Mr. Revell about it when I learned of it, and we have had a recent discussion about it upon his return from Europe this week.

Chairman **Boren**. If this were to happen today, if such a conversation were to take place today by Mr. Revell, what understanding do you have with him and with others that work with you about procedures that would be followed?

Judge **Webster**. My understanding is that I would be consulted before such a call were made because it involved an intervention in the judicial process. I would then discuss it with the Department of Justice before any action were taken. Very possibly the Department of Justice might prefer to make that contact directly with the United States Attorney and that would be entirely appropriate.

Chairman **Boren**. Does it disturb you in any way when these kinds of matters take place about which you are not informed?

Judge **Webster**. Well, they do disturb me when they do occur, and they occur very rarely. When they do, my concern is very clearly made known to those involved. It is most unusual in this situation because Mr. Revell was keeping me fully and accurately informed on his responsibilities as a member of the Operations Subgroup of the TWIG organization in the National Security Council.

He has consistently kept me advised of sensitive responsibilities, and I am confident that in this case it was clearly an oversight on his part.

Chairman **Boren**. And this, in your opinion, was not typical of his normal procedure of keeping you informed?

Judge **Webster**. Absolutely not typical.

Chairman **Boren**. Senator Cohen?

Senator **Cohen**. Judge Webster, can you offer any explanation as to why Colonel North would have called Mr. Revell of your office to ask his intervention?

Judge **Webster**. Mr. Revell—rather Colonel North was designated as the principle coordinator in terrorist matters as a result of the recommendation to the Vice President's Task Force on Terrorism. And as such, he had many ongoing relationships with the members of the Operations Subgroup, which included Mr. Revell as a representative of that Subgroup.

So far as I can determine, in all of Colonel North's contacts, there has never been a demand, an order, or an instruction but simply requests of one kind or another and there have not been many of those.

But, in each of those cases where it was a matter that I should know about with this one exception, I have been informed.

Chairman **Boren**. But why would Colonel North call upon your Executive Assistant instead of going to the Department of Justice to request contact be made with an Assistant U.S. Attorney who is prosecuting a case? Or at least presenting a case to a Grand Jury?

Judge **Webster**. I can only speculate on that, but according to the documentation that developed as a result of the disclosure of this teletype, Mr. Miller, who was the one who gave us Colonel North's name, was, according to Colonel North, a contract employee of the National Security Council who had been working with him in connection with the hostage matters. We were doing a a great deal of work at that time trying to come up with various ways to get the hostages out.

And there was a great deal of sensitivity about any public disclosure of anyone who was actively involved in trying to get the hostages out. So I can ony speculate that Colonel North thought that Mr. Revell could be helpful in keeping Mr. Miller's name out of the limelight during that April period when all of those negotiations were going on.

Chairman **Boren**. Why wouldn't he have contacted Attorney General Meese, for example, and said, Ed, I've got a problem. We've got a fellow who is on a contract——

Judge **Webster**. Well, it would have been entirely—I don't know the lines of communication. It would have been entirely appropriate for Admiral Poindexter to have contacted Attorney General Meese at Colonel North's request.

Colonel North knew Mr. Revell because they function together on a weekly basis. And I can only surmise that was the reason.

Senator COHEN. But it is not normal for the FBI really to be contacted on a prosecutorial matter that is pending?

Judge WEBSTER. That is correct.

Senator COHEN. So, I don't understand what the rationale would have been for Colonel North to have gone to Mr. Revell other than that they are friends, and knowing that because of their initimate relationship, working on the same counterterrorism activities, that he would assume that Mr. Revell would get on the phone, check it out, and get back to him on an informal basis, without wanting to alert perhaps somebody in the Justice Department.

Judge WEBSTER. It's certainly a close question as to whether the action taken by Mr. Revell was in connection with a criminal matter or in furtherance of the national security issue of getting the hostages out.

I'm sure that he viewed it as protecting the national security issue rather than doing anything to interfere with the criminal prosecution. If fact, as you know, the Prince was convicted and there was no interference with the processs.

Senator COHEN. But even if it had to do, presumably, with the taking of hostages or getting the hostages back out, why would the FBI be the one to intervene as opposed to the Attorney General's office?

Judges WEBSTER. Well, I can't answer the question because it would be entirely appropriate for Admiral Poindexter to go that route. The FBI is the lead agency in terrorist matters, and we were deeply involved in trying to find various ways to locate the hostages so that other people could take appropriate steps to get them released.

Senator COHEN. In this particular case involving the Prince, apparently, the FBI agent had to go to Washington headquarters—I think it's the White Collar Crime Section to get permission to interview Colonel North. And that permission was granted. But apparently from the record that I've seen, there was no effort to follow-up by that particular official who granted the permission to find out what happened. There was no request for a report, there was no indication that there was interest in following up.

What is the practice of the FBI—the White Collar Crime Division section—when a request is made like that?

Judge WEBSTER. Well, again, I can't really say what the practice is because requests like that are unusual and you could then logically conclude that because it was unusual, the Section Chief should have come back again to find out what happened.

But the ordinary course of events is that the result of the interview will be, in due course, transmitted by teletype. It will be picked up by a supervisor who will make the judgment whether it is something that the section chief needs to know. And if he doesn't, it will simply go into the file.

Senator COHEN. What happened to the FBI's report on July 18, 1985?

Judge WEBSTER. July 14?

Senator COHEN. July 18th.

Judge WEBSTER. Oh, July 18th.

The report was transmitted to headquarters with requests that it go to two additional field offices, and it was also transmitted simultaneously to New York. And New York being under the new teletype system.

Senator **Cohen**. When it goes through and it comes up garbled, you said that that is kind of an automatic rejection saying retransmit.

Judge **Webster**. That's correct.

That was the system under which we were operating during the transition.

Senator **Cohen**. Now, what happened when it went back saying the message came through garbled and we would like to have a retransmission? Nothing else was done?

Judge **Webster**. We can find no indication that it was retransmitted by WFO, but that's under the system as it existed. It would be hard to prove a negative. We could just find no record that it was retransmitted.

Senator **Cohen**. One final point.

What is the policy, then, with respect to a request to interview members of the White House staff? How is that handled now? FBI agents go in—

Judge **Webster**. Under normal circumstances, if it was a high-ranking official, a request would be made through the counsel to the President that we wish to make an interview.

Senator **Cohen**. Would the Attorney General be notified?

Judge **Webster**. No.

Senator **Cohen**. The FBI Director?

Judge **Webster**. I would probably be notified. I would expect to be notified. In fact, a few times I wasn't notified and I made a point of saying I expected to be notified.

The apropriate career level officials in the Department of Justice are notified depending on what the subject matter of the interview might be.

Senator **Cohen**. So, there have been occasions when requests for interviews of White House personnel have been granted and you were not notified?

Judge **Webster**. Very few. Very few and early on.

Senator **Cohen**. When would that be, early on?

Judge **Webster**. Back in the late 1970's.

Senator **Cohen**. My time is up, thank up.

Chairman **Boren**. Senator Bradley?

Senator **Bradley**. Thank you very much, Mr. Chairman.

Mr. Webster, if you are confirmed, what do you intend to do with any official or officials in the CIA who you may find responsible for inadequately supervising activities in Central America, activities which may have violated CIA policy or U.S. law?

Judge **Webster**. If I should find that any official of the CIA, and during my time in the FBI, the FBI for that matter, violated Federal law, that matter would be referred to the Department of Justice for appropriate action.

Following which or depending on the nature of the action, contemporaneously with that action, I would take appropriate administrative action.

I have to be a little general because I don't know the level or degree of fault, the nature and intent of the violation, but I would seek a prompt and appropriate administrative action which could range from the lowest level of reprimand or censorship to removal from a particular responsibility or to dismissal.

Senator **Bradley**. And that includes any violations of CIA policy?

Judge **Webster**. Violation of CIA policy? It would.

Senator **Bradley**. What if such individual or individuals claimed that they acted with the knowledge or the approval of the former Director of Central Intelligence?

Judge **Webster**. Well, we're in a difficult hypothetical area. The question that I would have to ask myself in such a situation is did the officer know that he was violating the law.

With respect to CIA policy, it's a more difficult question because policy is established by the Director and I presume he can make exceptions to that policy. If we are talking about violations of Congressional mandate or Executive Orders, then I do not believe that an agent can assert that as a defense if he knew and should have known it was in violation of a policy or of an Executive Order or a Congressional mandate.

Senator **Bradley**. So, if you find a room that's dirty, you'll expect to clean it up.

Judge **Webster**. I expect to clean it up. I don't want to prejudge that, Senator, but I had much the same kinds of questions asked of me when I took office as Director of the FBI.

But I expect to do the right thing.

Senator **Bradley**. Well, I would expect you to and I think the whole committee would as well.

Chairman **Boren**. Senator Specter?

Just before you begin, Senator Specter, I've received a written question from Senator Carl Levin of Michigan and I will submit it in the record and ask that the Director answer the question in writing for the record.

Judge **Webster**. Certainly.

[The document referred to follows:]

U.S. Department of Justice,
Federal Bureau of Investigation,
Washington, DC, May 6, 1987.

Hon. David L. Boren,
Chairman, Senate Select Committee on Intelligence,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: Enclosed you will find an answer to a question for the record submitted by Senator Carl Levin at the hearing on my nomination as Director of Central Intelligence before the Committee on April 30, 1987.

Please feel free to contact me or my staff should any further clarification be required on this answer or any answers which I provided to the Committee during the hearing.

Sincerely yours,

William H. Webster,
Director.

Enclosure.

Question for William Webster From Senator Carl Levin

According to press reports, on or about April 16, 1987 FBI Agents arrived at the Detroit Recorder's Court and 36th District Court at a busy time of day to interview

Judges, apparently without seeking to make appointments, relative to an investigation that they were engaged in. (They also apparently served some subpoenas.)

My question relates to the interviews they sought with Judges, *again allegedly without appointments.* Why couldn't the FBI Agents schedule interviews with Judges so that they would not disrupt the courts' business, if in fact the reports are accurate that such interviews were sought in the unscheduled manner indicated?

Answer. In connection with a judicial corruption investigation initiated in June, 1984, certain judges and employees of the Detroit Recorder's Court and 36th District Court were contacted for interview on April 16, 1987.

It was an investigative judgment that interviews be conducted simultaneously without prior appointment, so that persons to be interviewed would not consult with others prior to interview; and initially attempts were made to contact interviewees at their homes. There was no intent to disrupt court business. Three Judges from the Detroit Recorder's Court and one Judge from the 36th District Court were contacted at their residences on the morning of April 16, 1987. Where attempts to contact interviewees at their homes were unsuccessful, attempts were made to contact them discreetly at their places of business, which include the Detroit Recorder's Court and the 36th District Court.

Two interviews were conducted at Detroit Recorder's Court. A third individual declined to be interviewed. Three subpoenas were served for Detroit Recorder's Court records. Two interviews were conducted at 36th District Court. Three individuals declined to be interviewed. One subpoena was served for 36th District Court records. At no time during this process was any court proceeding interrupted by the FBI. A total of 17 Special Agents were involved in the interviews and subpoena service at the two court facilities.

FBI presence at the courthouses became known because of security procedures at those facilities. Special Agents identified themselves to security personnel upon entering the court facilities.

On the morning of April 16, 1987, Special Agent in Charge (SAC) Kenneth P. Walton and the Detroit FBI Principal Legal Advisor (PLA) met with Detroit Mayor Coleman A. Young. As a courtesy to Mayor Young, SAC Walton informed him of the nature of the corruption investigation and the immediate necessity to conduct interviews. The Mayor expressed his appreciation for this notification.

During an afternoon press conference on April 16, 1987, regarding other matters Mayor Young volunteered to the media that the FBI had initiated interviews at the two Detroit court facilities and acknowledged the notification by SAC Walton.

The FBI made no formal press announcements regarding this investigation but responded to press inquiries resulting from Mayor Young's statements.

Justices of the Michigan Supreme Court have been kept apprised of this investigation since 1984.

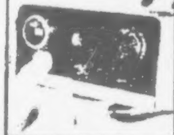
[Insert G - 3 pages]

[redacted]

Attn: MARTA 2 pp

Cloudy
High 63, low 45
Partly cloudy
Saturday
Details on Page 2A

Common bonds
Winans, Clark Sisters share more than gospel music - 1C



Radar detector owners argue against ban - 1B

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ON GUARD FOR 155 YEARS ••

Volume 156, Number 348

Which is Vanna?

White

Imber

Hard to tell apart, right? That's why Jacke Imbe, a student at MSU won National Enquirer's Vanna White look-alike contest. Imbe said it wasn't even her idea to enter the contest. See story, Page 3A

FBI quizzes city court judges

Agents issue subpoenas

By BRIAN FLANIGAN
and JOE SWICKARD
Free Press Staff Writers

FBI agents swept through Detroit's two courts Thursday in "the overt stage" of what federal officials acknowledged had been a three-year undercover investigation into alleged bribery and corruption.

As agents served grand jury subpoenas and interviewed judges and other court personnel, Mayor Young said the

He angrily accused FBI officials of being "publicity hounds" who made "a grandstand play."

Rumors of the federal investigation had riddled Detroit Recorder's Court and 36th District Court since last year. Federal officials have refused to discuss details of the investigation. But several court officials, including at least one judge, are believed to be cooperating with federal prosecutors, according to attorneys familiar with the probe, who spoke on condition of anonymity.

A person who originally was a target of the investigation, but agreed to work with federal authorities, allowed investigators to place electronic

meetings at the home with alleged targets of the investigation, the hidden equipment was used to record their conversations, the attorneys said.

Besides allowing his home to be used by investigators, the person cooperated with investigators by attempting to collect suspected bribes, the attorneys said.

THE RUMORS about the probe became reality about 8:30 a.m., when the first of 30 FBI agents began entering the two downtown courthouses.

"They just sort of walked in," said a Recorder's Court employe who spoke on condition of anonymity. "There's all kinds of rumors flying all over the place now. But that was true before."

Young: FBI seeks publicity

Young

By BRIAN FLANIGAN, PATRICIA EDMONDS
and JOE SWICKARD
Free Press Staff Writers

Mayor Young said the FBI's "grandstand play" Thursday at Detroit's two courthouses indicates to him that the federal agency has no "real interest in justice."

"Now the question arises," Young said during a press conference called on another matter, "did they have to go to Recorder's Court and to District Court in the busiest time of the day if they wanted information — or were they seeking publicity?

"If they really wanted to interview these judges, Case.

FBI questions city judges

FBI, from Page 1A

Among those the agents interviewed, or attempted to interview, were Chief Recorder's Court Judge Dalton Roberson, Recorder's Court Judge Evelyn Cooper and District Judge John Cozart, according to court personnel.

Some agents also served subpoenas for court documents and at least two Recorder's Court reporters were subpoenaed, the court personnel said.

Regna Veasey, a reporter now assigned to Recorder's Court Judge Michael Sapala, but who worked until recently for Recorder's Court Judge Donald Hobson, said the agents told her "They wanted some notes and asked me not to talk about it."

Two FBI agents, who mumbled their names to a Free Press reporter, said they had served several similar subpoenas for grand jury appearances.

THE INVESTIGATION focuses on judges who allegedly have accepted cash bribes in exchange for favorable rulings and lenient sentences, said attorneys familiar with the investigation who spoke on condition they not be named.

During the undercover portion of the probe, FBI agents posed as defendants and used electronic surveillance devices, the attorneys said.

Recorder's Court judges hear all felony criminal trials stemming from cases that originate in Detroit. Judges in 36th District Court hear traffic and ordinance violations, landlord-tenant disputes, minor civil suits and preliminary hearing in felony criminal cases.

At least two district judges and a Recorder's Court judge have said they believe they are among the probe's targets, according to friends or colleagues.

At least two other district judges, another Recorder's Court judge, an assistant Wayne County prosecutor, a district court clerk, a defense attorney and a handful of Detroit police officers also are targets, according to attorneys familiar with the investigation who spoke on condition they not be named.

One of the district judges, the assistant county prosecutor and a district court clerk previously were questioned by federal officials about their possible involvement, the attorneys said.

"IF THEY ARE GOING TO INVESTIGATE, THAT'S FINE, THAT'S WHAT THEY'RE PAID TO DO. BUT SECURE YOUR INDICTMENT IF YOU FIND SOMETHING. YOU DON'T HAVE TO GO AROUND LIKE THIS EMBARRASSING EVERYBODY AND PUTTING A CLOUD OVER EVERYBODY."

SAMUEL GARDNER, A FORMER CHIEF RECORDER'S COURT JUDGE

Young calls agents 'publicity hounds'

REACTION, from Page 1A

they could have done it at their homes."

Because the federal probe is so public, Young said, "whatever these judges have or have not done, a cloud is placed over both courts. It's hard enough to enforce the law — and everybody complains about law enforcement in this town as it is — without creating mistrust in the courts."

He called the FBI appearance at the courts "a grandstand play — and I don't think there's any real interest in justice. The danger is that whatever the judges have or have not done, it will be lost in the publicity."

Young called FBI officials "publicity hounds," and said he told Kenneth Walton, special agent in charge of the Michigan FBI office, as much when Walton visited the mayor at his City-County Building office about 9:30 a.m. to inform him of the sweep.

"They gave me a courtesy visit on their way, but their feet were itching for the sidewalks in front of the courthouse," Young said.

WALTON SAID "it's absolutely untrue" that Young called him a publicity hound to his face.

"The mayor made no such statement. He said he was very appreciative of being notified of the matter and expressed concern over the way the media in Detroit reacts to such things," Walton said.

"The entire meeting was cordial and a demonstration on the part of the FBI that we were extending a professional courtesy to the mayor."

But Samuel Gardner, a former chief Recorder's Court judge now in private law practice, said he also believes the sweep was grandstanding.

"Why was Walton there that way? He doesn't come out on investigations. This is not the way they do it," Gardner said. "I've never heard of anything like that. This investigation has been going on for years, so why tell the mayor this morning?"

Gardner said he hates "to see it done this way. If they are going to investigate, that's fine, that's what they're paid to do. But secure your indictment if you find something. You don't have to go around like this embarrassing everybody and putting a cloud over everybody."

He said the FBI might be using courthouse sweeps to "see if they can flush anything out."

Jimmylee Gray, a 36th District magistrate, said he believes "that there is definitely a cloud over the court. ... I think it causes the public to question what's going on in the court. ... My speculation is that the public is very much concerned about the quality of the justice that they get in the courts."

Said Recorder's Court Judge Michael Sapala:

"My honest reaction is that it's very upsetting. I believe in the system and this court. So many of us are working so hard to make justice work, it's just very distressing."

Free Press Staff Writer Brenda J. Gilchrist contributed to this report.

THURSDAY'S ACTION marked the first time federal officials publicly have acknowledged existence of the investigation.

In a joint statement, U.S. Attorney Roy Hayes and Kenneth Walton, special agent in charge of the Michigan FBI office, said:

"The FBI today entered into the overt stage of an investigation concerning allegations of public corruption involving various components of the Detroit criminal justice system.

"The reason the FBI is acknowledging this investigation at this time is because the interviews, which began early Thursday morning, have led to widespread inquiries."

They asked that anyone with information about possible corruption in either court call 965-6666.

Walton told the mayor about the sweep in his City-County Building office at 9:30 a.m.

Then Walton, accompanied by another FBI agent, went to Recorder's Court, at Frank Murphy Hall of Justice, and interviewed Roberson for about 15 minutes.

After the meeting, Walton would say only that he and his agents were "interviewing a number of people today. ... We are finding out where we are."

ROBERSON, WHO described the meeting as "cordial and businesslike," said he had no comment to the FBI's questions. They included, he said, whether he knew of any possible wrongdoing in his court, including improprieties on the part of assistant prosecutors or police officers.

Roberson said he also was asked if he knew Henry Duvall, a Wayne County deputy sheriff who has been charged with embezzling $2,000 in bail money posted at Wayne County Jail.

Adam Shakoor, chief judge of 36th District Court, said federal officials "didn't advise me they were coming." He said agents to whom he talked said the probe "did not start in this court, but rather worked its way over here."

WAYNE COUNTY Prosecutor John O'Hair, asked about rumors in Murphy Hall that a member of his staff is a target of the investigation, said:

"I would like to believe each one of my 140 attorneys are beyond reproach. ... A prosecutor's office has to be above all suspicion. If, God forbid, any member of this staff is involved, I would be compelled to seek the discharge of that person."

Many employes in the two buildings said they were unaware that FBI agents had been there until after the agents left about 10:30 a.m.

Free Press Staff Writers David Ashenfelter, Patricia Edmonds and Brenda J. Gilchrist contributed to this report.

District judge alleges entrapment by FBI

By JOE SWICKARD 4/22
Free Press Staff Writer

Detroit 36th District Judge Leon Jenkins, saying he "wouldn't be surprised" to be indicted as the result of a federal investigation of alleged court corruption, contended Monday that FBI agents or informants tried 11 times "to entrap me into some type of wrongdoing."

Jenkins also said at a morning news conference that he was pushed to the brink of nervous breakdown by federal harassment, intimidation and threats. He said that he was forced off the road by two men he believes to be FBI agents, and that they fled when he drew a gun on them.

Jenkins said FBI agents "act worse than hoodlums on the street . . . (and like) communist hoodlums with government badges."

Although U.S Attorney Roy Hayes declined to comment, Jenkins' allegations were disputed by Kenneth Walton, special agent in charge of the Michigan FBI office.

"Judge Leon Jenkins' allegations are untrue. Beyond that, we have no further comment," he said.

Jenkins, 33, who has been on the bench four years, has been named frequently by court personnel and attorneys as one of the judges believed to be a target of a three-year federal investigation into allegations of corruption, ticket-fixing and payoffs in 36th District and Detroit Recorder's courts.

See **JENKINS**, Page 13A

Judge alleges FBI entrapment effort

JENKINS, from Page 3A

Attorneys familiar with the case have said the probe focuses on other judges, court employes, police officers, an assistant Wayne County prosecutor, defense lawyers and others.

Jenkins

FBI agents swept through 36th District's Madison Center and Recorder's Court's Frank Murphy Hall of Justice two weeks ago, interviewing court personnel, examining records and serving subpoenas. Jenkins was on vacation at the time.

He said he will be available if agents want to interview him.

Denying any criminal or improper activities, Jenkins said he believed he was targeted "because of my involvement in the Buddy Battle case. . . . I stood by him as family member and not as a judge."

Jenkins said he looked upon Battle, a UAW official acquitted of embezzlement charges last year in federal court, as a father figure and a man who befriended him as a poor child.

Saying "no, no, absolutely not," when discussing whether he had ever taken improper payments, Jenkins joked that he has trouble spending his $82,000 annual salary.

HE SAID attempts at entrapment began in July or August of last year, and that he rejected each attempt to have him improperly intervene in traffic tickets and other cases, or, on two occasions, to accept bribes. The last approach was three weeks ago, he said.

"At what point — after entrapment has failed the first, second or third time — does it stop?" he asked.

The alleged approaches cited by Jenkins included:

- An offer of money by a downtown market owner — who Jenkins said was an FBI informant — to have him fix tickets, intervene or dismiss cases.

He said he met the market owner through a former Detroit judge at private poker parties. Jenkins said he was an infrequent player and lost about $300 over the course of a year.

Jenkins said he [illegible] the market owner over lunch last month in a effort to wring information from him.

- An effort by a man Jenkins believes was posing as a Marine Corps recruiter to fix tickets so young Detroiters would not be kicked out of boot camp.

- Attempts to fix tickets by a former judge, a police officer and a court employe. He said the court employe was fired as a result of the alleged bribery attempt.

He said he reported the attempts to court officials and to the Michigan Attorney General's office.

Jenkins displayed what he said were documents and letters that would support his allegations. He declined to let reporters copy or read the material,

Chairman BOREN. Senator Specter?

Senator SPECTER. Thank you, Mr. Chairman. Judge Webster, in the letter from Mr. Revell to this committee dated April 17, 1987, Oliver B. Revell, Executive Assistant Director of Investigations of the FBI, he says on page 3, quote, "If any action had been taken based upon my contact with the U.S.A. (United States Attorney's Office), notification by me to Director Webster and the Department of Justice would have been in order", close quote.

Do you agree with that?

Judge WEBSTER. I agree with it but I believe that no action should have been taken without discussing it with me.

Senator SPECTER. Do you think that he should not have contacted the United States Attorney's Office at all without contacting you?

Judge WEBSTER. If we can bifurcate the steps one step further, I have no quarrel with the highest ranking officials under me, if they have a legitimate purpose, to talking to the United States Attorney, there's certainly no bar on that.

But if his purpose was to request a postponement, he should have consulted me first.

If his purpose was to get information about the involvement of Mr. Miller, who incidentally was not a subject of that investigation but only a witness, then that's a different order of judgment.

Senator SPECTER. Well Judge Webster, I've asked you a very fundamental question about the notice to you because what you have here are 2 documents submitted to this committee. One dated April 13, 1987, one dated 4 days later April 17, 1987.

And the critical difference between these 2 documents submitted by the FBI just 4 days apart is that there is a change in the representation of the underlying facts as to whether Revell asked the Assistant U.S. Attorney for a postponenement or not.

Now, one key factor arising from that issue of fact is the obligation to notify you as Director of the FBI. In Revell's letter of April 17, 1987, he says you would have had to been notified had he made the request for a postponement. But he says since he didn't make the request for a postponement, he didn't feel it necessary to have notified you.

Do you agree with his statement that if he had asked for a postponement he should have notified you?

Judge WEBSTER. Absolutely.

Senator SPECTER. The memorandum of April 13, 1987, which you submitted to this committee functions exclusively on the basis that a request had been made for a continuance. But in the final part of the summary statement, the generalization is made that it was just a routine fraud investigation and no issue is suggested in the memo of April 13th that you should have been notified.

As I read through this with some care, it seems to me that on the basis of the facts set forth in the April 13th memo, that a conclusion followed that there should have been notification to you.

At page 3 of this document, this statement is made. North requested that Miller's appearance be postponed. Again, at page 3. Revell recalls contacting an Assistant United States Attorney in Philadelphia on the secure telephone line and requesting the postponement of Miller's appearance based on NSC's request.

And at page 4 it says, the AUSA, the Assistant United States Attorney in Philadelphia, recalls receiving the request for the postponement of Miller's appearance.

At the bottom, in the conclusion of this report, it says the Director of the FBI was not made aware of this investigation until April 13, 1987. This was a routine fraud investigation presenting no problems or issues requiring authorization or notification above Section Chief White Collar Crimes Section.

Now my question is on the facts as you understood them when you sent this matter to the committee on April 13, 1987, why wasn't there the——

One minute? I believe I started at 4:20.

Chairman BOREN. Is it 10 minutes? Five minutes. I'm sorry, but we'll come back to you with another round if you have additional questions.

Senator SPECTER. The question is how could you characterize this as a routine fraud matter in the context of what you knew at this time that Revell had made the request for a postponement based upon North's contact?

Judge WEBSTER. I can understand your question, Senator. What was intended to be conveyed there and if it was not, I certainly appreciate the opportunity to correct the record, is how that investigation was seen.

It was a fraud investigation in Philadelphia involving a bank which had a bad check among many bad checks to investigate and that was the criminal aspect of that investigation.

That is what the Prince was convicted of doing.

Senator SPECTER. Isn't it—you've already said it's highly unusual for a ranking FBI official to contact an Assistant United States Attorney and ask for a postponement based upon a contact by some third party.

Judge WEBSTER. I think, although I didn't actually propose that language——

Senator SPECTER. That's the reason I question how you could characterize this matter as routine.

When you come back to the committee 4 days later, the excuse is tendered that there was no need to tell the Director because no request had been made for a postponement. But on the facts as you represented them 4 days earlier, there had been a request for a postponement.

So on those facts, they should have talked to you and that's why I find it hard to understand how you could represent it as being routine.

Judge WEBSTER. Well, that memorandum was prepared for my use and as I listen to you, and I don't have it exactly in front of me, it said with the exception of his phone call which was not routine and which was the subject of my discussion with Mr. Revell about the inappropriateness of my not having been informed.

Senator SPECTER. Judge Webster, that's my precise point. The whole fact of the matter is about the phone call for the continuance. It hardly has anything to say with the exception of the outside contact to Revell. That's the whole point of the matter.

Judge **Webster**. I don't want to appear to be unresponsive and I'm trying to understand because I don't know that we're in any disagreement.

Senator **Specter**. How did it happen that in the intervening period of only four days it was ascertained that the basic fact was incorrect that Revell had not asked the Assistant U.S. Attorney?

You submitted to this committee a report on April 13th saying that Revell asked the Assistant U.S. Attorney for a postponement. You state, secondly, that the Assistant U.S. Attorney remembered being asked for a postponement. And then 4 days later, the critical fact is reversed.

Judge **Webster**. I believe I previously responded that the file memorandum of the Assistant United States Attorney was located in which no request for a postponement was made.

Senator **Specter**. Have you read that memo, Judge Webster?

Judge **Webster**. Yes I have.

Senator **Specter**. Well, the memo does not say that a request was not made. The memo was simply silent on it.

Judge **Webster**. But the Assistant United States Attorney has since stated that he did not request.

Senator **Specter**. But wasn't the Assistant U.S. Attorney questioned before you submitted your memo of April 13th?

Judge **Webster**. There was a phone call. This is the problem with a rush job of interviewing. Mr. Jamar talked to him. This is Mr. Jamar's recollection. But the Assistant United States Attorney has since, upon reading his own memorandum, stated that no request for a continuance was made.

I can only report to you what was reported to us.

Senator **Specter**. Well, do you know what it was in his memorandum that led him to change his mind? I have read the memo and there is nothing in here that says no request was made.

The memo is simply silent on the point.

I find it hard to say that by reference to this memorandum, the Assistant U.S. Attorney would change his position.

Judge **Webster**. The Assistant United States Attorney says he did not tell Mr. Jamar that he had asked for a postponement, that Mr. Revell had asked for a postponement.

Senator **Specter**. That Mr. Jamar was wrong when he put that in the report?

Judge **Webster**. That's Mr. Jamar's recollection and the Assistant United States Attorney says he did not say that.

Senator **Specter**. Was Mr. Jamar wrong when he reported in writing that Revell had said that he asked the Assistant U.S. Attorney for a postponement?

You have two things. You have Jamar writing that Revell asked for the postponement, and you have Jamar writing that the Assistant U.S. Attorney said that he was asked for it.

Then you have Jamar wrong about the Assistant U.S. Attorney's version. Was he wrong also about Revell's statement?

Judge **Webster**. I can't say that. Mr. Jamar's job was to write down what the two individuals told him. And this is his account of what they wrote down.

Then the memorandum surfaced. The questions were revived. Mr. Revell's recollection was refreshed. And the Assistant United

States Attorney, according to the information supplied to me, said that he had never said that there had been a request.

Chairman **Boren**. Senator Specter, I'll give you another opportunity with another round of questions. Other members have come in and have been waiting their turn and then we will come back around to additional questions if you have additional questions.

Senator **Specter**. Thank you, Mr. Chairman.

Chairman **Boren**. Senator Hecht?

Senator **Hecht**. Thank you, Mr. Chairman.

Judge Webster, I have reviewed your written responses to some of my questions I asked during the earlier hearings on your confirmation. Those responses will become a part of the record and made available to those who are troubled by the performance of the FBI's Field Office in Las Vegas regarding the Claiborne matter. I want to thank you for your response.

I would like to, once again, point out that many of the questions regarding Judge Claiborne and FBI Las Vegas Chief Joe Yablonski were raised during the impeachment proceedings last year. The Senate felt the conduct of the government's own investigation warranted further inquiry.

Since that Senate Judiciary Committee investigation has not yet taken place, I'm pleased to have had this opportunity to review your responses.

While I don't necessarily agree with what might be your assessment of the special temptations of the good life in Nevada, I sense your concern about strength of character in FBI personnel working there. However, there remain some troubling questions about the propriety of federal investigators exhibiting at least the appearance of conflict of interest, and engaging in political activity.

I recognize that there is much less probability of this happening in the CIA, but in reality it could happen. But I think you should agree that such activity would be highly inappropriate.

I also want to point out during my questions to you when I asked you a question that your response was very positive; you personally placed Joe Yablonski in Las Vegas and you took full responsibility for his actions. I want to compliment you. That's very refreshing in Washington when people do not shirk their responsibility.

Judge Webster, again, I thank you for your response, and for putting the FBI on record regarding some of the questions raised by the Claiborne impeachment.

Thank you very much.

Judge **Webster**. Thank you, Senator.

Chairman **Boren**. Senator Hollings has indicated that he does not have additional questions.

Senator DeConcini?

Senator **DeConcini**. Mr. Chairman, thank you. Let me indicate my thanks to Senator Hollings.

I have to return to the Appropriations Committee to offer an amendment.

Mr. Webster, I have a few questions I'd like to pursue if you can recall the Tumcon tapes, T-U-M-C-O-N, which we discussed the last time as they relate to the Donovan investigation—and confirmation proceedings of the Labor and Human Resources Committee.

The question I asked you then was did you know the contents of those tapes? And as I recall your answer was that the full tapes were not actually transcribed until the Independent Counsel was appointed. However, according to the Bronx Assistant District Attorney, those tapes were recorded in 1979 and transcribed as quickly as possible in order to conform to the law's requirement that those people discussed or recorded be informed.

Have you had an opportunity to determine whether or not those tapes were transcribed and in the FBI office even though they weren't brought to your attention?

Judge WEBSTER. Senator DeConcini, I have no new information on that at all. There was some indexing of those tapes as they were taken and those who were listening to portions of the testimony made index notes as they went along. Very incomplete.

You may recall that I testified in the past that I was informed at the time of Secretary Donovan's consideration for nomination that there had been a couple of entries recorded or noted in connection with the name of his company which had appeared on the tapes but not in a criminal context. That's the way it was given to me.

So far as I know, there was no complete transcription of those tapes until the Independent Counsel was appointed and had about eight employees working for a number of weeks to transcribe them.

Senator DECONCINI. And so you're saying that as far as you know, they were not transcribed and the Assistant District Attorney is incorrect that they were transcribed shortly thereafter?

Judge WEBSTER. No, there was some transcripts, some portions of them based on the notes. But there was no complete transcription.

Senator DECONCINI. Judge Webster, in response to my question whether or not White House Counsel, Mr. Fielding, had asked that these allegations tying Donovan to organized crime not be transmitted to the Labor Committee, your response was that I cannot recall such a request by the White House.

Is that correct?

Judge WEBSTER. That's correct.

Senator DECONCINI. Now, on June 9, 1982, in a press conference, you stated, "My understanding is that they, the transition team, were not interested in pursuing that particular matter." That particular matter being the organized crime allegations about Ray Donovan.

You said that the FBI expressly asked Mr. Fielding, "Do you want us to do anything more?" And according to your statement, you said that Mr. Fielding said nothing was necessary. So you did discuss it with him but he told you that nothing more was necessary.

Judge WEBSTER. I did not have those discussions. The discussions were coming from the agent responsible for the SPIN investigations. And they were having a number of oral conversations at that time. When the summaries were gone over, there was a suggestion from the field that Secretary Donovan be interviewed or reinterviewed.

And the agent in charge of the SPIN inquired of Mr. Fielding whether he would like to or thought it necessary to reinterview Secretary Donovan. And Mr. Fielding said that he did not.

I later questioned the agent to determine whether he felt that Mr. Fielding had prevented him from conducting an interview. He assured me that he was in agreement with Mr. Fielding at that time that no interview was necessary.

Senator DeConcini. Judge Webster, do you recall whether or not you briefed Ed Meese, who at the time who was in the White House, on the existence of Donovan ties to organized crime?

Judge Webster. The only information that I passed to Mr. Meese first through the personnel officer and then confirmation to Mr. Meese was the matter I just referred to. That there were these two references to his, Mr. Donovan's, company on some tapes in an organized crime investigation. But that I had been told that there were no criminal implications. They were not about criminal matters.

Senator DeConcini. You were told that?

Judge Webster. I was told that.

Senator DeConcini. And at that time, you had no information yourself, heresay or otherwise, about Mr. Donovan?

Judge Webster. That's correct.

Senator DeConcini. Mr. Webster—Mr. Chairman, I have a lot of other questions and my time is up.

I also, Mr. Chairman, am very concerned that we're going to vote today. I don't want this to be interpreted as that I am not going to vote for Judge Webster's confirmation.

But, for this Senator, it would be far more satisfactory if I had a chance to read the balance of the testimony and review some of the questions, particularly those of Senator Specter. In questioning the nominee, I also have a number of questions, so I ask the Chairman that we not vote on this today. I'm not asking for a long period of time, but long enough to read the record and satisfy myself.

While I realize we have a lot of work to do, I'm concerned about the speed in which this committee operates. But I found myself very inadequately prepared yesterday to vote on a report, not having a chance to read it. And I certainly hope that because this appointment is so important that I hope we could be granted at least twenty-four hours or through the weekend to review the record on this nominee.

Chairman Boren. Well, the Chair certainly will bear in mind your request and your feeling as I will all the members of the committee.

The Chair is simply trying to proceed in a manner that the majority of the committee wished to proceed. And, as you know, the Chair requested additional public hearings so that we could have an airing of all these matters. As I have indicated, we have a very strong desire to be thorough in what we do.

Senator DeConcini. Mr. Chairman. If the Chairman would yield, I make no criticism of the Chairman or the conduct of the committee. It just seems to me after we proceed to another day of hearings, that it would be very wise to have time to review the transcript and the information obtained at this hearing before we vote the nominee out. At least that's the way we operate in other committees. We should not vote on the same day that we have the hearing. That's the only question I would like to raise.

Senator Hatch. Mr. Chairman?

Chairman BOREN. Senator Hatch.

Senator HATCH. Mr. Chairman. Look, I understand my dear friend's concerns. But we're going to have time to review the record between today and when we vote Judge Webster out, which I hope is the case.

Senator METZENBAUM. I can't hear you, Senator.

Senator HATCH. I say, we'll have time to look at the record if we voter Judge Webster out today—between then and the time his nomination comes up on the Floor.

Now I would suggest this. We can all come up with cases that we wish we had more knowledge of. You and I have at least ten—fifteen that we could ask a lot of questions of the FBI Director, but basically we've got to get about getting a Director out there at CIA.

I don't think anybody doubts the integrity of this man. And I think we ought to move expeditiously on this because this has been dragged out, it seems to me, longer than it needs to be.

Senator DECONCINI. Will my friend from Utah yield?

Senator HATCH. Sure.

Senator DECONCINI. I just want to say that I'm in no disagreement as to the integrity of this individual.

Senator HATCH. No, I know you are not.

Senator DECONCINI. And I have every reason to believe right now that I'm going to vote for him as I have in the past.

But I think the process is important here. Yes, we have taken a long time and rightfully so and the Chairman has conducted it in a most professional manner but to have another days hearing today, and then want to vote it out right at the end of the hearing before you have a chance to see. I haven't been here all day to listen to the questions because I'm in Appropriations Committee. I suggest that's true of other committee members.

I value the judgment of the member's questions here, and I should like to have that available. That's just one Senator speaking. If I'm overruled, fine. I'll have to vote against the nominee which I don't want to do because I'm not prepared to satisfy my obligation to vote this nominee out.

Senator HATCH. May I just make one or two more comments?

Senator DeConcini and I have worked together for many years now in FBI matters, as Judiciary Committee members and now on Intelligence matters.

But in all honesty, we're not dealing with a normal situation. We're dealing with a major agency that is rudderless. It needs to have a head. Nobody doubts the integrity of Judge Webster even though we might have questions about a number of FBI cases.

Mr. Chairman, I don't have any problem with bringing Judge Webster back in the secure room or anywhere else and asking him questions about some of the things that happened down at the FBI.

But we ought to move ahead because our national security interests demand it.

And I would like to vote.

Chairman BOREN. Let me ask if there are other members of the committee, we are allowing a round of questions to all members of the committee and then I'll be happy to reopen this subject, but I would at least like to allow completion of the questioning.

Senator Bentsen, do you have questions you'd like to ask at this time?

Senator **Bentsen**. No, Mr. Chairman, but at some point I want to comment on the points that have just been raised as to the continuance of these hearings. Whenever that's relevant, I would like to make some comments concerning that. I think, Mr. Chairman, that you have been exceedingly diligent in holding this hearings and pursuing any questions that might have arisen. But we have to understand here that we are not dealing with an utter stranger. This is man who have been in public service here in Washington for some time now. He has fulfilled his role, I think, in a most responsible way. You have the situation where I think they made a wise choice in nominating this man to head the CIA, which is a terribly responsible position. I'm under the impression that Mr. Webster was ready to hang up his hat and do something else. I think we are lucky to have a man of that caliber and that integrity, as I perceive it, willing to serve in that position. And I hope that we can get on with voting on his confirmation. I for one am looking at questions and answers he has given and have been satisfied. I would like to bring this to a culmination.

Chairman **Boren**. Are there any other comments on this matter? Senator Metzenbaum.

Senator **Metzenbaum**. Well, Mr. Chairman, I actually came here prepared to vote but then there was placed in front of me a briefing book. It really looks very interesting. It looks like it has a lot of material in it that I hadn't seen before then I saw also a two page teletype dated July 18, 1985 but actually dated April 29, 1987 and frankly I think, I don't know Webster. I've seen him around. I've talked to him, and I don't have any problem with him. But, but I also think that there are some questions that we have a right to inquire into. And I share with this book—what value is this book to me? I asked my staff when did this book come to me and they say it was distributed this morning. Well it looks like a lot of items in here that I would like to look at, that I've never seen before. And I don't know how I could read it that rapidly and still ask questions and then the idea well, then we can vote him out or we can bring him back afterwards or something. Frankly, I don't think it is good procedure. We are talking about the appointment of a man to a position that has been a subject of the highest possible controversy in the past several years. We are also talking about a man who has had a relationship with the Attorney General of the United States, about whom there are a number of public questions now and there are some items in this book that talk about that aspect of the matter as well. I haven't read it. I don't know what it says. But I believe, Mr. Chairman, that the Senator from Arizona makes a good point when he says he's not prepared to vote at this time.

Chairman **Boren**. Let the chair say that the information which was sent to the Chairman on April 13 and April 17 was immediately shared, distributed to the committee staff. And in fact, during the past several days, while we are trying to make a decision, I was canvassing the members to determine if there were additional questions they wished to be asked based upon this information. The Chair has been urging members and the staff members including the designees to contact all members to see if they had questions about this matter, and urging everyone to read this material.

The Chair determined that we should have this hearing and that's the reason we are having it—to allow every single member an opportunity to ask questions. The Chair felt the desire to ask some questions and I felt very strongly that certain matters should be examined and placed in the public record because it was in the best interest of the committee, the best interest of the nominee and the best interest of the country to have a full and adequate discussion on these matters. The Chair wil not try to force members of this committee to rush to judgment on a matter of this importance.

I would urge that the members ask what questions they have to ask today and at the conclusion of this period, if members want additional time to reflect, we have originally planned to schedule a meeting again in the morning at 11:00 at which time members who were in and out of this hearing would have time to read the responses to these questions. These documents that, as I say, have been in our custody, have been transmitted and available to everyone. And if that's the desire of the committee at the end of that time, certainly that was the original intent of the Chairman.

Several members of the committee contacted the Chairman and suggested that they would prefer to vote at the end of these proceedings today. The Chair wants to make certain that everyone has an adequate opportunity to think about this matter and doesn't plan to try to push the committee faster than it should go. We'll hold a final decision in abeyance while we complete the rounds of questions. That would be my plan and if there are more questions to be asked today, then I would suggest that we come back tomorrow.

In all fairness, the nominee is here. He has had a conversation with me that reflects that he fully understands and in spirit fully understands the responsibility of this committee. He is here to answer any questions which we have based upon the information which he has given to us. And I would point out that the information he sent on April 13 was not information uncovered by the committee, it was information volunteered by the Director himself, who during the recess contacted me, tracked me down, sent it to this committee and volunteered this information. He has continued to find every bit of information relating to this subject that he could. He has been undertaking a search of files of any information that my be relevant, so I don't want to leave the impression that he has not been forthcoming in this matter. I think we have given him the pleasure of joining us again to answer our questions. He's here waiting to answer them and I think we should proceed ahead with those questions. It's your turn to ask questions.

Senator METZENBAUM. Mr. Webster, in connection with the National Endowment for the Preservation of Liberty, Spitz Channel, did that subject come to your attention prior to the last few days' publicity?

Judge WEBSTER. The newspaper publicity? Yes, Senator.

Senator METZENBAUM. No, what I'm really asking you is were you aware of Mr. Channel's activities, the activities of the National Endowment for the Preservation of Liberty, the fact that on our TV sets—it came to my attention because I saw it on the TV last

April, a year ago April. Rather it was last April. And I saw where this was a tax exempt organization engaged in politics. Engaged in telling people how to vote. Engaged in putting pressure on members of the Congress And then there was available a letter from their television producer, Mr. Goodman, in which Mr. Goodman wrote a 4 page letter priding himself and the organization as to the impact that they had had on the Congressional results of the Contra votes. I raised that issue with the IRS as to why they continue to maintain tax exempt status.

But the fact is that you didn't have to be a sleuth to come to the conclusion that a tax exempt organization was using tax exempt funds for political purposes which we all know violates the law. My question is, did the FBI or did you have any involvement at all in connection with that matter? Was it brought to your attention or was it self-activated or were you investigating the subject because it's obvious that Mr. Walsh had enough in a rather short time to go forward and get a plea of guilty.

Judge **Webster**. Senator Metzenbaum, the area that you are talking about is normally within the purview of the Internal Revenue Service with respect to tax exempt funds. We did not have any references and therefore no investigative interest in Mr. Channel until the independent counsel was established, rather, even before that time, until the investigation was authorized by the Attorney General on November 26. We did develop the information through our FBI agents before the independent counsel was designated and following his designation, as assistance to the special counsel, which has resulted in the report. So, I'm trying to answer your question, after November 25, we took it on. We had no investigative interest prior to that time.

Senator **Metzenbaum**. I have no further questions.

Chairman **Boren**. Thank you, Senator Metzenbaum. Some members of the committee have indicated to me they wish to come back in just a moment and they've requested a brief recess, after which time I will recognize Senator Specter to complete his questioning and we will just continue rounds of questioning as long as members have questions.

We will take a brief 10 minute recess. There are some other votes in other committees going on and members will be returning. The Chair will then recognize Senator Specter to continue the questioning.

[A brief recess was taken from 4:56 p.m., to 5:05 p.m.]

Chairman **Boren**. At this point, the Chair would say that I want to give every single member of this committee every opportunity to ask every question that they want to ask. Out of consideration for the nominee, I think it only fair that if they have questions, they appear at this session and ask their questions. We will proceed along today as long as members have questions that they wish to ask within the reasonable limits of the fairness to the nominee and his physical endurance. After all, we are testing his qualifications to hold office and not engaging in a physical endurance contest.

It has been said, this is a very serious matter. It's a very serious subject that we're dealing with, a very important post in this government. The Chair wants to make it clear again, the information with which we are dealing was volunteered to the committee by the nominee and by the Federal Bureau of Investigation. The Chair, upon receipt of that information, has circulated it to the staff of the committee, the designees of the members of this committee. It has been available to all members of this committee. This Senator has spent several hours pouring over these documents. Other members of the committee have spent hours pouring over these documents. I have urged members to acquaint themselves with this information. And the Chair decided that it was appropriate to hold an additional public hearing as an abundance of caution and thoroughness to make sure that the record was complete and included all questions that members of this committee wanted to ask. That's why this hearing is being held. So I have again requested that members of the committee who have questions come to the hearing room to ask those questions.

In light of the concerns that have been raised by some members of the committee who want more time to reflect upon the testimony given today and spend some more time reading through the briefing and background books that have been prepared by the staff, it is not my intention to proceed with a vote today. I'll assess the situation at the conclusion of this hearing. I want members to have a chance to ask all questions they want to ask. I know that the nominee wants to make sure they've had that opportunity. He's here to respond to those questions and we'll proceed with the rounds of questioning at this time.

I'll recognize Senator Specter at this time.

Senator **SPECTER**. Thank you Mr. Chairman. Judge Webster, I had not quite concluded in the first round, the issue on the difference between the FBI reports of April 13 and 17. As I understand your testimony, what it boils down to is that Mr. Jamar, who did the questioning, originally reported that Revell said he asked for a postponement and the Assistant U.S. Attorney said tht Revell asked for a postponement and on the April 17 memo—4 days later—Jamar then reported that the Assistant U.S. Attorney said that he had not been asked for a postponement, and that Revell also changed his view and said that he had not asked for a postponement. Is that correct?

Judge **WEBSTER**. That's correct Senator. In fairness to Mr. Revell, who had his memory refreshed, I thought it appropriate that he be given an opportunity to submit that in writing as he did orally to the members of the staff.

Senator **SPECTER**. The question was important in Mr. Revell's mind because as he said in the letter of April 17, that was the determining factor as to whether you should have been notified. In view of the importance of the issue, do you have any explanation as to how the facts, or the representations of the facts were altered in the 4 day period?

Judge **WEBSTER**. I do not have any other than what I was told. What Mr. Revell told me was that when he saw the memorandum, it answered for him the knawing concern that he had not told me about it as he knew he should have. And that he recalled then that he had not asked for a continuance because the Assistant United States Attorney had volunteered that Mr. Miller was not going to be called at that time.

Senator **Specter**. Judge Webster, essentially we have two issues on the questioning today. One involves this Philadelphia fraud matter and what influence North had exerted, and the second involves the question as to whether North received information about FBI investigations as reported in Newsweek and in the Philadelphia Inquirer. The central question arises as to how close North was to the FBI or how close North was to Revell. And exactly what happened. The concern is amplified when you come back to your memorandum of April 13 where at the bottom of page 2, North requested the FBI to hold in abeyance the interview of Zadeh until the week after July 22. So not only is North involved at a later time to ask for a postponement for Mr. Miller, North is involved the year before and asks that there be a delay in the questioning of the Prince. And then, in another FBI cable, North comes into the picture and claims that Miller had attempted to contact the Washington field office to arrange for an interview of Zedah. Then the FBI report says that the information reviewed by the Bureau here was the first time that there was knowledge of North's facilitating the channelling of funds to the Nicaraguan Freedom Fighters. The report goes on to say that this information was not disseminated further. Why not Judge Webster? Why wasn't the information disseminated further?

Judge **Webster**. Are you referring, Senator Specter, to the July 18 memorandum? Is that the one you are talking about?

Senator **Specter**. No. I'm talking now about your transmittal of April 13, 1987. I am referring to page 3 of the WFO, the Washington Field Office, teletype dated July 31, 1985, reporting this contact by North. This is the first time it occurs. Now the importance comes up—as you and I were just talking informally about it in the anteroom—if you add this to information which came to you in October of 1986, given North's proclivities, then the picture comes into focus. And why isn't this information reported?

Judge **Webster**. This information was reported by the Washington Field Office to FBI Headquarters by teletype, but as I previously explained, it was not transcribed and retained at FBI Headquarters and it was not passed up the line. It did go to New York which was just an information copy. But we did not have it at headquarters because of a teletype failure. Had we had it, I would liked to have thought that there would have been substantial interest in a request to defer an interview based upon aid to the Contras.

Senator **Specter**. Well, let's pick up the memorandum of July 18, 1985, Judge Webster. This is the memorandum you have testified about that never quite got to headquarters. The question arises, on the face of what is here, why not. Even if it doesn't get to FBI Headquarters, why isn't there some attention to it? It's addressed to you, Director of the FBI.

Judge **Webster**. They are all addressed to me, Senator.

Senator **Specter**. I know they are but they are addressed to you for a purpose, because you are the Director. And there has to be some recognition. It's not just happenstance; they are not addressed to me. They are addressed to the Director of the FBI and as I was about to say, the attention of SSA George Lane. In addition, it is marked "priority." And I know that's not your highest procedure either. Priority doesn't necessarily really mean priority. But the memorandum contains some very historic facts. "Information regarding the Prince's expressed interest in donating to the Nicaraguan Freedom Fighters was discussed by North personally with President Ronald Reagan and National Security Advisory, Robert McFarlane." "North specifically requested that attempts by the FBI to interview the Prince be held in abeyance until after the week of July 22, 1985 due to the critical timing of the Prince's possible but remote large donation to the Nicaraguan Freedom Fighters." Now this isn't like Miller. This is not a witness. This is the prospective defendant. If you delay the questioning of the defendant, it can be very important, as you and I both know on investigative matters. And it contains the notation that North advised Kattke that in as much as U.S. public law forbids expenditures of government funds to aid Nicaraguan insurgents, it was inadvisable for a member of the NSC, North, to meet with Prince directly. It shows that North seeks to do indirectly what he cannot do directly. To a law enforcement officer, you immediately know you can't get away with that. If it's done by an agent, or indirectly, there's responsibility which attaches. Why, in the face of a memo about trying to hold off the interview of the defendant, about the circumvention on its face of U.S. public law, and about the attention it calls, personally, to the President, doesn't that come to the attention of the Director?

Judge WEBSTER. I have every confidence that it would had come to my attention had it gotten out of the teletype room. It never left the teletype room.

Senator SPECTER. Well it got to New York. It got somewhere. It didn't get to the FBI Headquarters, but it was disseminated. It did reach some of its destination points. Dit it not?

Judge WEBSTER. Just to New York.

Senator SPECTER. Well, alright. It gets to New York. But it doesn't get to the Director.

Judge WEBSTER. It did not get to the Director. I should emphasize that we get about 10,000 pieces of paper a day addressed to the Director at FBI Headquarters. I wish this had gotten to me. It was obviously the kind of thing that would have gotten to me had it gotten even to a supervisor's desk

Senator SPECTER. Judge Webster, Mr. Revell in his letter of April 17 characterized his conduct as "entirely appropriate." Do you agree with that?

Judge WEBSTER. His conduct in making the call?

Senator SPECTER. In making the call.

Judge WEBSTER. Well, I have to qualify that, because it did not include a notification to me. In my opinion, I should have been notified in advance of that telephone call and I most certainly should have been advised following the telephone call.

Senator SPECTER. So with that limitation you would say it wasn't, at least, entirely appropriate.

Judge WEBSTER. Well, I can't automatically say of course, go ahead and call him and make the request. It's very difficult to second guess a situation of that kind. But my inclination would have been to have consulted with the Department of Justice before any such call were made and perhaps not even to have made it ourselves. But I can't say that the call was wrong, that it was illegal or that it violated any established rule. I should have been involved in the decision.

Senator **Specter**. Would this have violated any established rules, if he had asked for the postponement?

Judge **Webster**. I don't know that I want to concede that point, because I think a great deal more information would have been necessary. The Attorney General would have had a call on whether or not the purpose—are we talking about the 1986 call which had to deal with delaying the testimony of a witness for one week?

Senator **Specter**. Correct.

Judge **Webster**. No, I don't know that that would necessarily be inappropriate. We have to balance investigations all the time. I think, as you pointed out, had we honored a request to defer the interview or testimony of a subject of an investigation in order to support private funding in the Contra effort, that would have been completely improper. But it did not occur. Nor in fact was there a delay in the testimony of the witness due to FBI intervention.

Senator **Specter**. It is obviously a lot more questionable to delay the questioning and interrogation of the defendant as opposed to a witness. I leave it to you as to what your regulations are. That's why I started the questioning at the very outset by reading what Mr. Revell had said. What Mr. Revell said was that if he had made the request for continuance, or "if any action had been taken based upon my contact with the U.S. Attorney's office, notification by me to Director Webster and the Department of Justice would have been in order." Now I think that means required. It doesn't say required, it says would have been in order. Was it required or not?

Judge **Webster**. I don't suppose there is any written rule between the Executive Assistant Director and the Director as to what he must be told, but Mr. Revell knows my views on matters of this kind. Since I have that responsibility I would expect to be notified and I would have wished to be notified in advance of the call.

Senator **Specter**. I have only one minute left or perhaps even less than that now, Judge Webster, so let me close with a very short question. You testified, as I understand it, that this business involving Mr. Channel was really outside the purview of the FBI. It would have been IRS. I wonder about that. This charge, as it is reported in this morning's media was conspiracy to defraud the government by soliciting contributions for military aid to Nicaraguan Contras under the cover of a tax exempt charitable foundation. Doesn't that state a federal crime?

Judge **Webster**. Yes, indeed. Well, I don't know for certain. Conspiracy is of course a broad charge to cover a lot of offenses. But normally, the investigative agency in the area of responsibility, for instance tax matters, are normally processed by the Internal Revenue Service and that is the way in which tax cases normally proceed. My point was simply that when we got the information which was not previously available to us by having access to Colonel North's files, we immediately opened that investigation.

Senator **Specter**. When you noted in this morning's media that you have Mr. Channel involved with Col. North and Mr. Richard Miller—the same cast of characters as the Prince case in Philadelphia—did it ring a bell that even more so a closer look at that Philadelphia fraud case should have been called to your attention?

I know this is Monday morning quarterbacking; you have the benefit of the morning paper, but there you have North and Miler invovled as alleged co-conspirators with a man who is entering a guilty plea and there they were in the Philadelphia story.

Judge **Webster**. That's right.

Senator **Specter**. Thank you Mr. Chairman.

Chairman **Boren**. Senator Metzenbaum, do you have any additional questions?

Senator **Metzenbaum**. Yes I do if you'll just give me a moment. I'm trying to read, Director Webster, the FBI report in response to the Newsweek article of April 20, I think it is, which states that Newsweek has learned that North was sent copies of FBI files about the Contra network. In effect letting him monitor the investigation of his own activities and wasn't cut out of this loop until last October 30. And the story then goes on to talk about a matter down in Florida where Mr. Leon Counter, the U.S. Attorney, and Mr. Feldman were involved in an investigation and that there were and that the Attorney General—well let me first ask you about that question, I think they are two separate subjects.

Let me ask you, to what extent was North given copies of the FBI files about the Contra network?

Judge **Webster**. I don't think I can answer that specifically with respect to the Contra network because I don't know what that is. But I can try to answer the question, Senator Metzenbaum, in this way. Col. North was designated to be the coordinating official for terrorism matters pursuant to an Executive Order and following the recommendation of the Vice President's Task Force on Terrorism, to be the principal coordinator for all government agencies dealing with terrorism matters in the National Security Council. We directed routinely a number of items of information as dissemination of intelligence information not only to the National Security Council, but to the Department of State and other Departments and Agencies that had a legitimate interest. He would have had access to our routine disseminations. He had no official access to our files or to individual contacts with individual agents.

As we find out he did of course, make attempts to contact individual agents from time to time. Those contacts, as we have found them, have been reported to this committee. In all cases that I have found, with the exception of the Revell telephone call, which Senator Specter has examined me about, any contact outside headquarters with an agent was promptly and correctly reported to FBI Headquarters. And so far as I can determine, no action was ever taken by an FBI agent in the field under instructions from Lt. Col. Oliver North on at least two occasions he was interviewed as a course of our investigative effort, and that information was made the subject of memoranda. The Adair matter which had to do with allegations of a conspriacy to conduct a paramilitary raid on Nicaragua, was one in which he made contact with an agent in Los Angeles due to the fact that the agent had contacted, for purposes of an interview, a film producer on the West Coast who was alleged to know something about this conspiracy, and who apparently notified Col. North of our call and Col. North was back in touch with the agent. The agent promptly reported Col. North's contact with him to headquarters and sent copies of this report to the Miami office. The Miami office in following up its leads was aware of Lt. Col. North's interest as National Security Officer concerned with terrorism matters and recommended dissemination of its report to Lt. Col. North's attention at the National Security Council and it came back through headquarters, which was exactly the correct thing to do. The agent who requested to notify Lt. Col. North on another matter of the conclusion of an investigation, because of the involvement of the National Security Council requested permission from Headquarters. Headquarters granted that permission. So far as I can determine, all of the procedures in place were carried out scrupulously. The only exception to those procedures was one which I consider to be inadvertence and that is the matter of Mr. Revell not reporting his contact with Col. North to me on the Prince matter.

We have allegations in the newspaper that someone in New York was funnelling information and we tracked that down to a particular agent. We have interviewed the agent twice. He has represented to us that he has had no contact with Lt. Col. North whatsoever. And we are satisifed that he is the agent about whom the newspaper was reporting.

So that in general I can say to you that we were not funnelling information to Lt. Col. North. We were disseminating intelligence information about terrorist activities worldwide to the National Security Council routinely along with the Department of State and other interested agencies. Additionally, as the coordinator for the Operations Support Group, which is a subcommittee of the TWIG organization, of the National Security Council. From time to time, Mr. Revell distributed intelligence information to all the members of the committee, and Col. North would have had access to that as a member of the committee.

I have reviewed all of those disseminations and can find nothing improper in them. So, I would be able to conclude from the factual backdrop that I have just given you that Col. North had no pipeline into the FBI and that agents of the FBI were not giving him information to which he was not entitled.

Senator **Metzenbaum**. Let me ask you further about the same Newsweek article which I think is entitled "New Doubts About Meese and the Contra Inquiry. Did He Choose Not To See The Evidence?" One part of the article talks about early in 1986 a Cuban-American contra backer Jesus Garcia told the agents a lurid story of a plot to kill Ambassador Lewis Tims in Costa Rica, blamed Nicaraguan agents and thus create a pretext for U.S. war in Nicaragua. With that, the U.S. Attorney in Miami, Leon Kellender, sent an assistant Geoffrey Feldman with 2 FBI men to find out what was going on in Costa Rica. The article goes on to say that they then investigated it and that while Feldman was in Costa Rica, skip that point. Meese turned up in Miami to visit 2 wounded FBI agents and asked Kellender about the investigation. Kellender denies that he saw this as pressure to ease off and indeed after Kellender and the 2 FBI men returned Kellender initially agreed with their recommendation to call a grand jury. But after meeting in Kellender's office with Richard Gregory, Feldman's immediate superior in the criminal section, Kellender reconsidered. Their report concluded a grand jury would only be a fishing expedition. What changed their minds? Another assistant in Kellender's office quoted him as claiming I'm under a lot of pressure from Washington. I want this to go very slow. And it goes on further to talk about such items such as when Meese began his personal invetigation of the Iran arms deal. Webster offered the FBI services, but Meese saw no criminal activity and Webster went along. FBI entered the case only later.

The question I have is in the Florida case, I'm sure you are familiar with it, what was the FBI's position as to whether the matter should or should not be presented to the Grand Jury and what do you know if anything about any pressure brought in that case to keep it from being submitted to the Grand Jury?

Judge **Webster**. Senator Metzenbaum, I know very little about that particular case. I had no decisional role in it. Our agents conducted an investigation, completed the investigation. Various prosecutive decisons were ultimately made, and I understand a Grand Jury has convened and is hearing that case at the present time. But I cannot supply you any first hand knowledge because no issues came to my attenton and I can assure you that the FBI gave no instructions to slow down or delay that investigation. In fact we completed it, subject to Grand Jury testimony.

Senator **Metzenbaum**. My time, I'm advised has run out.

Chairman **Boren**. Do you have another question? I think Senator Specter might prefer, if you want to, to have you go ahead and conclude and then he could go ahead without interruption.

Senator **Metzenbaum**. I'm sure you've answered this question previously, but I don't think I was present when you did. It refers to the fact when Meese began his personal investigation of the Iran arms deal, Webster offered the FBI's services, but Meese saw no criminal activity, and Webster went along. And you entered the case only later. Why didn't you enter the case at that time? It seems to me that your responsibility was one which there were problems, there were legal problems, you belonged in the case and whether or not the Attorney General thought you should be in, if you thought you should be in and that there was criminal activity. Why didn't you get in? And it's a matter of real concern but I guess it's probably been asked of you earlier.

Judge **Webster**. Senator Metzenbaum, with all respect, there really was no criminal cast at that time. We're talking about the afternoon of Friday, November 21. What we were talking about were apparent inconsistent statements by government officials about what had taken place in Iran. I had already earlier in the year discussed the existence of a Presidential Finding, that the Attorney General had seen it, had reviewed it, was satisfied that the Iranian transactions were lawful. And there was no real information on that side of the house and none to my knowledge about diversion of funds to the Contras. We were talking about the fact that the President had asked Mr. Meese, in view of the inconsistent statements and inconsistent views of his Cabinet officers, to try to talk to them and find out what actually happened—to come up with a consistent story. I only offered any kind of logistical assistance because I thought it was appropriate to make the offer. He asked me if I saw anything criminal that would warrant the use of the FBI and I said no I didn't, based on what I knew at that time. And that's correct.

It wasn't until he went over there and in the course of questions and examining of documents for the purposes of getting a consistent statement of what had taken place, that they found one document—a document which still has not been characterized in the legal sense which appeared to be a proposal by Col. North to Admiral Poindexter to use money from the payments of arms to Iran to the Contras. It was based on that document and the possibility that there may have been a law violation that the Attorney General asked his criminal division to consider what laws may have been violated. And following their consideration on November 25, he authorized the FBI to open an investigation based on those laws. So that at the time I was asked that question, we were not talking about criminal investigations but simply his trying to enter into a fact finding inquiry to tell the President what actually had happened as distinguished from what various people were saying in inconsistent ways.

Senator METZENBAUM. I think the nub of the entire issue we have before us in your confirmation is Director Webster, who it would appear may have gone along and not raised questions maybe when they should have been raised. And somewhat part of the team and it is hard to determine whether you were right or wrong. The question that I think this committee has to decide, and I think most of the members have decided, whether or not you will have that independence as the CIA Director, that apparently your predecessor didn't have so that we can look to you to run the CIA in a totally independent manner without anybody being able to call the shots other than you based upon facts and the information available to you. I think that's really the question we have to decide.

Judge WEBSTER. I understand that Senator. And you have 9 years of my record to decide whether or not I have ever evaded or avoided my duty. I can simply tell yout that on that afternoon I had no information of criminal activity that would have supported a criminal investigation in my opinion.

Senator METZENBAUM. I'm frank to say to you that at this moment I'm going to vote for him, I'm almost certain that I am, but I have just the weeist bit of lingering concern and I think that based on your 9 years of service I think I have to give you the benefit of the doubt for you. But I think I would be less than candid with you if I didn't tell you that I think in some of the instances, I think you might have conducted yourself just a bit differently than you did. But I suppose it's easier to judge retrospectively than it is at the time. Thanks for bearing with us.

Chairman BOREN. Thank you, Senator Metzenbaum. Senator Specter.

Senator SPECTER. Thank you, Mr. Chairman. Judge Webster, moving on to the second question now as to disclosures by the FBI to Colonel North, I refer to a cover letter from you, signed for by Anthony Daniels, dated April 22, 1987. I turn to page 2 in referring to the Spivey matter, quote—this is from your report—Spivey commented that he had related much of this information to Oliver North of the National Security Council. This document is marked secret so it's obviously preferable, if not mandatory, to leave out the substantive materials that are referenced here.

[Pause.]

Senator SPECTER. I'm told it's been declassified.

Chairman BOREN. Senator Specter, which document? I wanted to follow with you.

Senator SPECTER. I was referencing the cover letter from Judge Webster, signed for by Anthony Daniels to you, Mr. Chairman, dated April 22.

Chairman BOREN. April 22?

Senator SPECTER. Yes.

Judge WEBSTER. I have that document before me, Senator Specter.

Senator SPECTER. Well, this information now is not secret so it can be disclosed so the public will have a fuller picture of it. The memorandum specifies that Special Agent Boone transmitted the teletype to headquarters. Birmingham, Houston, Miami field offices received a telephone call from Mr. Spivey calling from Florida. Spivey furnished additional details concerning the proposed action to Nicaragua. He named the principle planners as Tom Posey, and a man known only to him as Colonel Flaco. It goes on in some detail about Posey having met with Adolfo Calero, leader of the Contra movement. The point I asked you before was, quote, Spivey commented that it related much of this information to Oliver North of the National Security Council. Is that appropriate?

Judge WEBSTER. Spivey was not working for us. Spivey was a potential source of information who had originally started this story running. He had apparently called the Department of State wanting to get in on filming this invasion that was being planned, and we were advised by the Department of State. So, we got in touch with Spivey. Spivey then told us about hearing about this through Mr. Adair, who is a writer on the West Coast, and he named one of the individuals, Tom Posey, and a person known only to him as Colonel Flaco. Now, he told us that he had——

Senator COHEN. Say that real slow so we don't mispronounce it.

Judge WEBSTER. F-L-A-C-O. Flaco. He told us he had already given this information to Colonel North. And our teletype was simply reporting the fact that Spivey had said he had called Colonel North with this information.

Senator SPECTER. Continuing on the same page, quote, North requested that no mention be made of Calero in connection with this matter due to the sensitive nature of his association with the U.S. Government. Was that request honored?

Judge WEBSTER. I think the answer has to be no because we disseminated this information to the National Security Council as it was reported by the special agent.

Senator SPECTER. Well, was North requesting that the information not be disseminated to his own agency or not to be disseminated otherwise? The sentence in the report doesn't specify, but I would think that North would not want to preclude his own agency. It seems he would be looking not to have it disseminated to others. But that's my question.

Judge WEBSTER. My recollection—and I can confirm this before this hearing is over by taking time to look at the documents—my recollection is that the informational note which came to me made no mention of Colonel North, but did reflect that it had been distributed to the National Security Council and the Department of State and other agencies. And I can show that to you, but I would still have to go looking for it.

Senator **Specter**. All right. I would like to see it. Going on, you pick up with Special Agent Boone saying that he was contacted by FBI headquarters and requested to recount his discussions with Oliver North concerning this matter. Boone commented that he regards such contact as highly unusual. And going on, during this recontact, North requested an update of the investigation. Was it given?

Judge **Webster**. What he did receive—or what the National Security Council got in connection with this planned revolutionary activity—or invasion activity—was a report from the Miami office to FBI headquarters which was routinely disseminated to the National Security Council, the Department of State, and others. There was an indication on the Miami teletype that Lt. Colonel North wanted to know about it, but it was just routinely disseminated.

Senator **Specter**. The document goes on to say, North wanted to confirm that the FBI was investigating this matter. Was that confirmation given? Are you saying, Judge Webster, that notwithstanding the telephone calls and that North contacts Boone and Boone calls him back at the White House, that Boone was suspicious; and yet the calls him back at the White House. Let's say Special Agent Boone did so and determined that this telephone number was in fact the White House switchboard. During this recontact North requested an update of the investigation. North also wanted to confirm that the FBI was investigating this matter, emphasizing that these reported plans regarding Nicaragua were contrary to White House policy. My question to you is, in face of all that, is nothing given to North? Does it all go through the regular routine? Through headquarters.

Judge **Webster**. That's exactly what I am saying.

Senator **Specter**. The agents don't tell him anything?

Judge **Webster**. That's exactly what I am saying. He gets it through the regular dissemination route.

Senator **Specter**. Would the information have been disseminated to the National Security Council had North not made these calls?

Judge **Webster**. I think that question was asked of the supervisor and his answer was yes because it involved an invasion of foreign policy issue and those normally will go to the National Security Council.

Senator **Specter**. What you are saying is that with all of North's activities such as calling up the agents in the field and giving to the FBI agents the White House number—that it all amounts to nought. He doesn't get any extra leverage, doesn't get any extra information.

Judge **Webster**. That's what I'm saying in this instance.

Senator **Specter**. Any other instances to the contrary?

Judge **Webster**. None to my knowledge. No.

Senator **Specter**. And over on page 3, the Miami field office reported the results of its investigation to FBI headquarters via teletype on January 8, 1985 with copies to Los Angeles, Birmingham, Houston, and the New Orleans field office in view of the concern of Oliver North in this matter, which Miami had discerned from the January 5, 1985 Los Angeles interview. Miami requested the substance of their teletype be relayed to Oliver North of the NSC by FBI headquarters. Was it?

Judge WEBSTER. Yes, it was. But it was disseminated to the National Security Council.

Senator SPECTER. Would that have been so disseminated absent North's request?

Judge WEBSTER. The supervisor advises that would have been his judgment.

Senator SPECTER. If you regarded that it was unusual that Colonel North has all of these contacts with FBI agents, makes these requests and has them calling at the White House, it has to have an impact on a man it would seem to me.

Judge WEBSTER. Well, it may have, and I was very pleased in reviewing this because I did not know about these contacts. It pleased me very much that all the agents consented to stay in channels.

Senator SPECTER. Judge Webster, I think you did know about them. The bottom of the report says, quote, an informative note dated January 8, 1985 summarizing the contents of the Miami teletype of that same date and enclosing a copy of the communication was sent to the Director who initialed it to the file.

Judge WEBSTER. That's correct. But the informative note made no reference to Lt. Colonel North.

Senator SPECTER. Do you have a copy of that handy?

Judge WEBSTER. Yes, I'm sure we do.

Senator SPECTER. May I see it? I've only had an opportunity, as you can see, to scan these 4 pages briefly, but why was no reference made to Lt. Colonel North's participation? Wasn't that a pretty important factor?

Judge WEBSTER. It would have been to me, but I can understand how those reporting it and summarizing it may not have recognized that Colonel North was not under anybody's suspicion at that point. You've asked me from time to time to put myself into the head of other people. I can't do that. It would have been important to me. I would have wanted to know that.

Senator SPECTER. Well, that's a question we keep coming back to. We keep coming back to the question about what impact Colonel North had in the entire process, and you say none. Reports that you have filed with this committee says none. These reports from the FBI of 4 pages are fairly lengthy. They contain more material in sum than your condensation does to this committee, and you refer to North frequently. Of course, North is the subject of a matter of our interest, but why not a reference to Colonel North? I think it's a fair question, Judge Webster, because you're the boss.

Judge WEBSTER. I think it's a fair question, but I have to find out after the fact that there was no reference to Lt. Colonel North. Lt. Colonel North, as I have mentioned earlier, was the coordinating official designated in the National Security Council by Executive Order to be the coordinator for all terrorism matters. He had a serious responsibility and I can see no reason why the agents would do more than report it, which they did. That was their responsibility. The supervisor did not see anything unusual in it sufficient to report it to me. In hindsight, naturally I'd like to. I don't know about all of the world seeing it all, but it would have made me aware of Lt. Colonel North's contacts with individual agents. That would have been disturbing to me. But, I was pleased in reviewing the record to see that the agents handled themselves commendably and in accordance with our procedures that are put in place to protect against that sort of thing. From time to time I have made it clear to my executives that I wanted to be closely informed about any kind of White House influence, and as recently as September, 1986 before all this broke, I addressed a memorandum to my executive conference reminding them that I wished to be informed of any committee meetings at the White House to which they were invited as my representatives or for any other purpose.

Senator SPECTER. Well, Judge Webster, I think you've put your finger on the core of the issue when you talk about, your words, White House influence. Influence is questionable no matter whose influence it is. You had seen that memorandum of October 30th prepared by Mary Lawton that we talked about extensively at the last hearing. It made reference to the fact that North might be the subject of a special prosecutor's investigation, and therefore that certain information ought not to go to the NSC. You had initiated this 30 October memorandum but didn't recollect it. Would it have had a considerably different impact if you knew that a guy out of the White House giving the White House number is doing a lot of talking with a lot of your agents all around the country.

Judge WEBSTER. It certainly would have had more influence. The Nicaraguan one—the one we've just been talking about—the Adair case—was one in which Lt. Colonel North was simply emphasizing in his role in the National Security Council, his interest in seeing that this group be vigorously investigated as violative of federal law and national policy. So I can't see anything suspicious in his interest. It was simply in the procedures that he followed that I would have had some concern and quarrel with.

Senator SPECTER. Well, I wouldn't use the word suspicious, but I would use the word questionable. And the word questionable arises in my mind because he starts to make contacts with FBI agents. And this is at a time when he might well be a suspect—a subject of investigation himself. That's the gravamen of a concern that I have. But, let me try to wrap this up fairly soon; I do have a number of other questions—and, turn to a report——

Judge WEBSTER. Back in 1985 I don't think there was anything that suggested he was a suspect, Senator. But, anyway, I understand what you're saying, and I agree with you. I would have liked to have known that he was doing it, but I'm glad that our procedures protected the process.

Senator SPECTER. Well, you didn't know it in 1985. But, you know today that it was going on in 1985. It's on the front page of the Post.

Judge WEBSTER. Absolutely.

Senator SPECTER. Conspiratorial conduct is alleged wherein you have Channel pleading guilty and North identified as a co-conspirator in the indictment, and also Miller. There's an April, 1985 transaction contemporaneously with all of these events.

Judge WEBSTER. 1985. That's true. But, what we know today is not what we knew in 1985.

Senator SPECTER. Well, that's the question as to what you might have pieced together if this memo had contained a reference to Colonel North. But, let me go on if I may. Turning to a report by the Philadelphia Inquirer dated April 15, 1987, it says this, quote, FBI spokesman, Ray McIlhenny, issued a 2 sentence statement saying that the FBI headquarters in Washington, quote, has disseminated no files regarding Neutrality Act investigations to the National Security Council and certainly is not aware of such dissemination by FBI field offices. That would be totally unauthorized, the FBI statement said. Is that accurate on the basis of delineating it only to a Neutrality Act investigation as opposed to these other matters where the NSC and North has access to FBI reports? Or is McIlhenny just wrong?

Judge WEBSTER. I don't know what McIlhenny was talking about whether he was talking about the dissemination of investigative files or the dissemination of intelligence information. We have routinely supplied intelligence information to the National Security Council on international terrorist matters.

Senator SPECTER. And that could have involved matters involving the Neutrality Act?

Judge WEBSTER. It could have. Yes.

Senator SPECTER. This Inquirer article contains this statement—the document was written by an FBI agent working in Miami according to Federal law enforcement sources who spoke on condition that they not be identified. It allowed North to keep tabs on an investigation that could have revealed his own possible role in assistance to the contras during the 2 year Congressional ban on U.S. military aid to the guerrilla force, unquote. Is it possible that the disclosures that the FBI made to the NSC that got into North's hands did reveal to him matters which could have revealed his own possible involvement in a criminal matter?

Judge WEBSTER. I don't think so. We had well over a hundred Neutrality Act investigations arising out of Nicaraguan activities and allegations, none of which so far as I know were ever disseminated to the National Security Council. The National Security Council got the Adair matter because we're talking about an invasion by U.S. persons of Nicaragua. That's an entirely different kind of problem.

Senator SPECTER. The Wall Street Journal of April 16, 1987 has a report which is similar. It says, quote, "Justice Department spokesman Patrick Courtney yesterday confirmed that the memo appears to have been transmitted to Lt. Colonel North, but said it never went through Justice Department or FBI headquarters in Washington." And this is the substance of it. Quote, "Law enforcement officials said that the agent who hasn't been identified wrote a memo distributed to Colonel North and others in early 1986 about the status of a politically sensitive criminal investigation of alleged arms smuggling to Nicaraguan rebels or contras. The investigation which began in 1985, and still hasn't been completed, could have exposed efforts by Lt. Colonel North to assist the contras during a period when Congress banned U.S. military aid to the guerrilla forces." Do you have any knowledge of North having gotten any such memo?

Judge WEBSTER. I do not, Senator Specter. I directed the Assistant Director in charge of our Inspection Division to try to get to the bottom of that. The investigation identified the particular agent who was alleged to have made that dissemination. The agent has twice been interviewed and has twice denied even knowing Colonel North. I don't know how you keep on proving negatives, but I have no such information. I do not believe it to be true.

Senator SPECTER. You have testified that you had made the inquiry to the New York based FBI agent. You said you thought you knew who it was and it turned out to be incorrect.

Judge WEBSTER. That's correct.

Senator SPECTER. Without telling too much, can you state why you think you had the right guy even if it turned out to be incorrect?

[Pause.]

Judge WEBSTER. We had information with respect to a case agent who was conducting the investigation that fit this picture and we were able to match that name with information supplied to members of this staff—of your staff—the committee staff.

Chairman BOREN. The committee staff did supply this information and the agency has made a determination of identity.

Judge WEBSTER. We confirmed the identity that this appears to be the person the newspaper article was talking about. Whether or not there is some other person floating around the New York office—there are a thousand agents up there—I can't say for certain. But it appears that the source information is attributing it to this agent. When we are dealing with allegations and unnamed sources, we can only take it as far as that, and I think we have done the best we could.

Senator SPECTER. You think you have the right guy in New York, but you can't be sure.

Judge WEBSTER. Yes, Senator.

Senator SPECTER. The Wall Street Journal article refers to a second FBI agents in Miami. How about that one?

[Pause.]

Judge WEBSTER. We are not able to match that one up, Senator, beyond simply the assumption that it is the agent that made the Miami teletype that said attention of Colonel North or Lieutenant Colonel North wants to know about this, but sent it to headquarters, not to Lieutenant Colonel North.

Senator SPECTER. Well, I understand, Judge Webster, the impossibility of providing negatives. I know that. But the long and the short of it is that you really just can't say for sure because you have so many agents in the field.

Judge WEBSTER. I am very confident from the fact that we have been able to pick up the information that we volunteered to you since these hearings started, that our agents, who are very sensitive to outside importuning, were very careful and meticulous in transmitting this information to headquarters. We have 9,000 special agents, 21,000 employees, 300,000 investigations going on at any given time, but I am so confident of my agents that I would be willing to stake my reputation on the fact that no such transmittal of information was going on to Colonel North other than as I have described to you at length today.

Senator SPECTER. Well, just to fill out the last question on this line, Newsweek says the same thing. "Newsweek has learned that North was sent copies of FBI files about the Contra network, in effect letting him monitor the investigation of his own activities and wasn't cut out of the loop until last October 30th," unquote.

Judge WEBSTER. I do not believe that to be true. He received certain kinds of information relative to terrorism and the hostages that were given along with other departmental officials at the OSG meetings, but none of those related to Contra network or other matters covered by that term.

Senator SPECTER. The question arises because you do have the calls by Mr. Revell, you do have the contacts with the FBI agents and you do have a man, Lieutenant Colonel North, who was extraordinary at making a lot of representations and getting a lot of people to do things that would surprise some sitting in calm settings like Senate hearing rooms. That is why it comes up.

Judge WEBSTER. Well, I certainly appreciate your concern. It is a concern, his method of doing business, that worried us all, as I have previously testified. I have tried to hold a tight rope on what kind of contacts or influences he or anyone else could have on the White House. The Independent Counsel has conducted a very thorough investigation of all of Colonel North's files. Nothing has come up to indicate that he has access to that kind of information from us.

Senator SPECTER. Well, these circumstances have raised the concern that I have had about the investigations. Did the FBI conduct an investigation following up on the GAO report on humanitarian aid to the contras?

[Pause.]

Judge WEBSTER. I am told that we did. I don't have the details of that myself, but I am told that yes, we did.

Senator SPECTER. I don't know quite how to phrase this question. I can't ask you, was it a thorough investigation. What did you do, what did you find?. Was it a thorough investigation? That's like asking if the fish is fresh today.

Judge WEBSTER. It is still pending, Senator Specter.

Senator SPECTER. Still pending. Full scale, tough investigation by the FBI?

Judge WEBSTER. I would like to think we were giving it our best shot, and I can assure you that when this session is over, I will assure myself of that.

Senator SPECTER. Well, the issue, of course, arises as to whether investigations that are conducted after November 24, 1986, are like investigations conducted beforehand. You really only qualify for investigations before November—it is a more important consideration as to what happened before all of this came to light.

The last subject matter on this line involves my concern about the Hasenfus investigation. Information has been called to my attention which may or may not be correct, but the conclusion is that there wasn't a whole lot of investigation done, and I would like to ask you about that. Hasenfus, as I recollect, was shot down on October 5th. There were allegedly initial visits by the FBI to Southern Air Transport which had done the maintenance work, and the inquiry was about the ownership. On October 8, Colonel North called Mr. Revell, asked the Miami special agent in charge as to what was going on, made some contact there.

On October 9th, Southern Air called the FBI, responded to give the name of a Mr. Gadd, I am told, and was transferred back to the special agent in charge of the FBI office who said he didn't need anything more.

We had the memorandum which you had sent to the file confirming holding up on that investigation. We have the later memorandum from Mr. Martin, Chief of the Internal Security Division, to Mr. Weld, the Assistant AG in the Criminal Division, asking if the FBI can go ahead. Now, there is the representation that the FBI did very little more on that. One more interview on or about December 20th. Is that substantially correct?

Judge WEBSTER. I don't know whether I can agree that it was substantially correct or not because of the kind of slant that seems to have been placed on it. We moved promptly when the question arose of whether Mr. Hasenfus was flying in a plane that was associated with Southern Air Transport. We ascertained almost immediately that it was not a Southern Air Transport plane, but a flight that had originated outside the United States in a C-143 airplane owned by another airline not associated with Southern Air Transport.

We attempted within a short period of time to try to locate the official of Southern Air Transport, who was not available, for further interviews. We were interested in reviewing any records relative to the maintenance of that airplane, which may have been maintained at some time by Southern Air Transport. We, through a sensitive source which I am not privileged to talk about in an open session, satisfied ourselves that we could obtain all of the record information that we needed relative to that activity. We did in fact subsequently obtain all of that record information.

There is no pertinent connection between Southern Air Transport and the activities of Mr. Hasenfus.

Senator SPECTER. Did you ultimately ascertain who the owner of the plane was?

Judge WEBSTER. I believe that we did. I am not prepared to give you the name, but we did.

Senator SPECTER. I am not asking you for the name. I am just asking you if you ascertained who it was.

Judge WEBSTER. Yes.

Senator SPECTER. Do you know whether it is true that the special agent in charge in Miami responded to a Southern Air employee that the FBI agent wasn't interested in the identity of the owner of the plane?

Judge WEBSTER. We have not been able to confirm that.

Senator SPECTER. You have investigated that?

Judge WEBSTER. I can't give you the answer to that question. It is just another one of those—if we chased down every allegation about how we answered a question as reported in the newspapers, I am afraid we would be pretty busy. I don't know whether we looked into that one or not.

Normally, when there is an off the wall, obviously improper response attributed to the FBI, I direct an investigation if I see it, or I ask for an explanation of the facts. This one did not really come to my attention. I am not sure that it came to anybody else's attention. We do not have an answer for you as to whether or not an agent said that or did not say that.

Senator SPECTER. Judge Webster——

Judge WEBSTER. But we did conduct the investigation, and after all, isn't that the important thing,

Senator SPECTER. Well, yes, that is the important thing, but I asked about that question because I think it is important. It isn't a regular off-the-wall comment that appears in the newspapers if there is an allegation that the special agent in charge of the Miami office responded that he wasn't interested in knowing the owner of the plane which was maintained by Southern Air Transport I would think that this is an important question.

Judge WEBSTER. Well, there are many ways that he might have said it. He might have said it that way. He may already have known who the owner was and did not choose to give out information to the press about what we did or did not know. There are many, many reasons why a person might respond in that way.

Senator SPECTER. Well, I am not referring to the response to the press. What I am asking about is did the matter come to your attention that the special agent in charge allegedly turn down information on the ownership of the plane?

Judge WEBSTER. No, it did not, other than the newspaper reports.

Senator SPECTER. But it came to you through the newspaper reports?

Judge WEBSTER. Ultimately, yes.

Senator SPECTER. And did you investigate that question?

Judge WEBSTER. I don't think that one. I asked for any information about anybody giving information to Colonel North. I don't know that I asked for that particular information to be run down or manpower resources be expended on it.

Senator SPECTER. And the Hasenfus investigation is now completed?

Judge WEBSTER. It is with the Independent Counsel. I am not prepared to answer that question.

Senator SPECTER. Was it true that after the memorandum of November 12, 1986, to Weld from Martin, that there was only one additional interview completed by the FBI on the Hasenfus matter?

Judge WEBSTER. I really can't answer that question. I don't know the answer to that question.

Senator SPECTER. Well, Judge Webster, I go into these questions at some length and there is a lot more that could be said, but I am going to end these lines of questioning now. And I do so because a confirmation hearing is an unusual opportunity to combine Congressional oversight with the function of confirmation. And the impact of Colonel North on our system is being felt in very strong ways and a lot of different ways. But I think it was important to spend the past 40 minutes in discussing these matters in terms of how he circumvented the system and why it raises a question as to the thoroughness of the FBI in terms of what happened. Perhaps there are only isolated transactions such as those with Mr. Revell, and perhaps they are entirely innocuous. Perhaps, they are entirely appropriate. Others can judge that. My thought is to ask the questions and put this matter on the record, and a lot of people will pay attention to the questions and the answers; we'll be more careful when these matters recur in the future. That is a very important part of what we are doing here. And that is my purpose in asking.

And if you add to it the Mary Lawton memorandum of October 30th with your initials on it and what might have been done had more of these small pieces of the puzzle been in your purview, there might have been a different outcome to this affair given your capability and your ability to assimilate and to assess and to put the pieces together.

The last question I have for you relates to the open question when you were here before on April 9th. That concerns Mr. Gates. I had asked you at that time, as it appears at page 31 of the record, did Deputy Director Gates act properly in having a hand in the preparation of Director Casey's testimony of November 21, 1986, which omitted the important reference to diversion of funds to the Contras, Ghorbanifar's failing the lie detector test, the absence of a Finding, and the effort, subterfuge, to have a Finding apply retroactively.

You said at that time that you would review the record if I insisted and I said I did. My question to you is, are you prepared to answer that question now?

Judge **Webster**. Senator Specter, I acceded to your request. I did read the record of Mr. Gate's testimony and the interrogation of Mr. Gates. I finished with the same concern that I expressed to you at that time, that I thought it was a very narrow record on which to draw interpretations as to correctness of conduct.

I can make some generalizations. I noticed that Mr. Gates in his testimony, when he found out that Mr. Allen had some concerns, took them, brought them forward to the Director; that he asked the General Counsel to conduct a review; that he and Mr. Casey took their concerns to Admiral Poindexter, who apparently did not give much of an indication about what he was going to do about it or shed any further information.

With respect to the preparation of the testimony, it was clear to me that it was prepared in a maze of confusion. Mr. Casey was out of the country. Mr. Gates testified that he had some initial cuts at it but did not participate in the end product. Mr. Casey came back from his trip abroad. The indications from the record and from, I must say from what I have been told because I have made some independent inquiries, that he made many personal changes in that testimony; that they were ripping up sheets and going back and forth.

I don't know what Mr. Gates saw at the end. I do know that you were concerned about omissions—the omission to discuss the problem of the Finding and the omission to discuss the possibility raised by Mr. Allen that there may have been some diversion of funds. The only thing I can say about that, Senator Specter, and I can't make a judgment—a personal judgment on the record that you gave me—is that it would depend a lot, were I in that situation, either in Mr. Casey's role or Mr. Gates' role, whether or not I had been convinced by the evidence or the information supplied by Mr. Allen, that I was convinced that there was a substantial likelihood that there may be truth to this sort of information. If it were just speculation or just uncorroborated informant information, I don't know whether I would have insisted or tried to insist on that type of thing coming before the committee.

Having read his lengthy testimony and having experienced your own concerns here and having talked at length with the Chairman and the Vice Chairman about the kinds of things that you want to know, what I might think now and what I might have thought in those days might be entirely different.

I know that great masses of uncorroborated information come to the CIA, because we get a lot of it. The Libyan hit team that we never bought into in the FBI came out of such information, uncorroborated, and just passed along. I wouldn't think that this committee would want to get that kind of information. The question that I can't answer from this record is whether or not that type of information had reached—had gelled sufficiently that you should have been made aware of it.

The Finding problem was hampered in part by the opinion of the General Counsel. As I understand it both the previous and the present General Counsel are of the view that a Finding was not necessary. I——

Senator SPECTER. Judge Webster, I don't think that is correct.

Judge WEBSTER. Well, I am glad to be corrected on that.

Senator SPECTER. I don't think that is correct, but that is——

Judge WEBSTER. I happen to think a Finding was required. So as far as the future is concerned, I have no problem with that.

Senator SPECTER. Well, I was reluctant to interrupt you because it is an important answer, but I don't want to let it pass. Mr. Gates gave some testimony on that issue, but I do not believe that the underlying facts are that now Judge Sporkin thought a Finding was not necessary or that the General Counsel who succeeded him thought that a Finding was not necessary.

Judge WEBSTER. I see. But you are just giving some vindication to what I said about the difficulty of trying to come to a logical conclusion from such a narrow record that I had.

I can assure you, as I would all members of the committee, that as information develops from the Select Committee's investigations the Independent Counsel, I, if confirmed, will have all of these matters in mind. But in my working with Mr. Gates in preparation for these hearings and in my past experience with him, I really have a great deal of confidence, both in his integrity and his willingness to come forward and tell me, if I am confirmed, of matters that ought to go into my testimony. And I would be very disappointed if he did not and I would be very much surprised if, after his experience before this committee, he failed to do so.

But that is as far as I can honestly go, and I would not ask you to push me beyond that at this time, in fairness to him and the inability from such a narrow record to reach any quick shotgun conclusions about it.

Senator SPECTER. Well, I think that you have answered the question. I would not be reluctant to push you, but I don't think that is warranted or appropriate.

I would comment really that it is not enough for Mr. Gates to tell you. Mr. Gates has a duty to tell this committee. He ought to start off by telling the DCI, and if the DCI doesn't tell the committee, then he ought to tell the committee. That is a point you made at the last hearing, of the affirmative obligation of the Deputy. Mr. Gates did not do that, however. Where you talk about his appropriate conduct in recalling what Mr. Allen said to the Director, after which he and the Director went to talk to Admiral Poindexter, I think that was proper, important and good. But it doesn't go far enough. The critical step is coming to the committee.

Judge **Webster**. Excuse me, Senator, I don't mean to interrupt you, but weren't they under a Presidential order not to do that at that time?

Senator **Specter**. I am not sure. That is one of the tough legal issues. A case can be made that they were; that the Finding had included that. But there is also a case to be made as a legal matter, one lawyer to another, that those Findings have to be reviewed, and as one lawyer to another, that if the directive is unlawful, it is no excuse. You can't follow an unlawful directive. And it is a tough choice for a subordinate to make, but there are cases going back to the German U-boat cases, the shooting down of the survivors with the gunmen claiming they are acting under orders, and a lot more cases of less violence and less firmness than that. So that is seemed to me at that juncture there was an invalid direction. And there was a duty on the part of those in authority to come forward and tell the committee at that point. But I think that really is the issue.

But I accept the answer which you have given. And the more important answer may be is its educational process as to what will happen in the future.

Thank you, very much, Judge Webster; thank you Mr. Chairman.

Chairman **Boren**. Thank you very much, Senator Specter.

Judge Webster, I also want to express my appreciation to you for the candor with which you have answered questions. Let me say again, just for the record and not to reopen the debate, because this is the confirmation hearing of William Webster and not the confirmation hearing of Robert Gates, but I would say again, and I have said this to Senator Specter individually, and it is a subject that I imagine that we will discuss some more over a period of time, that my own experience with Mr. Gates during this period of time in which he has been Acting Director—of course, he did not become Deputy Director until April of 1986, which was after the issuance of the Presidential Finding—my own experience with him during this period of time in which he has been free to operate as the Acting Director and to impose his own policies has been that no one could have been more forthcoming than Mr. Gates has to the Chairman, the Vice Chairman, the members of the committee, with the kinds of information that he has given this committee. In fact, I would have to say that during the time that I have been Chairman, I have not dealt with anyone in government that has been more open, candid or accountable than he has been.

That is not to say that every action of any public official is always perfect as we look back in retrospect. We have asked some very difficult questions today. The members of the committee have posed some very difficult questions to you. They have been straightforward. They have been probing. I think that is healthy. Because I hope that the confirmation process will not only be one in which we determine fitness for a position, but it will also be a process that will sensitize all of us to our responsibilities.

Quite frankly, I think that what we have been through in this committee and in the Congress over the past several months has not only caused us to have thoughts about how the Executive Branch should conduct itself; I think it has caused us to feel our own sense of responsibility for the oversight process more keenly. That is the reason, as I said today, that I scheduled this additional hearing, that every member of this committee, charged with oversight responsibility, would have an opportunity to ask every question. I think that is exactly the sentiment Senator Specter was expressing awhile ago. That it is not in hostility that questions are asked, but it is out of a heavy responsibility that each and every member of this committee feels to the oversight process with which we are charged.

This is a unique committee. We sit as 15 members who learn a lot of information that is not automatically communicated to all of the rest of the Senate. So in essence, we are called upon to be trustees for the rest of the Senate. I am not asked to exercise just my own judgment, but I am asked as a trustee to try to understand how the 85 Senators who are not members of this committee might feel about a certain course of action if they were privy to the same information.

I think it has been a healthy process. It sensitizes us to our oversight responsibilities. I hope that it has sensitized you even more so to the responsibilities that you would have as Director of Central Intelligence, to work the mutual trust with us, to try to make sure that all of the actions of our government in this area are lawful, accountable in every way, appropriately to the democratic process.

We have had a great tragedy that has developed in the country because in this bicentennial year of the Constitution, we are now in the midst of an investigation about what happens when the regular Constitutional process is not followed.

We have a way of making law in this country. Congress either enacts or turns down bills. Presidents either sign or veto proposed legislation. That is the way we are going to make policy. And obviously it is a dangerous and slippery slope we start down when either through private fundraising mechanisms, shadings of the law as Senator Specter said during his questioning, utilization of agents to do indirectly what it is illegal to do directly. When we get into this area of not following the straightforward Constitutional process, it is fraught with danger for the republic, it is fraught with danger for the policies that are involved, and dangers for the individuals that are involved. And so I think we have been through an important process.

As I have said to you one of the important considerations that has been in my own mind and I have been very candid, I doubt that there is a member of this committee that has a doubt about the personnel integrity of William Webster. I would say to you that after as many years of public service on the bench and as Director of the Federal Bureau of Investigation, some of those early years especially in very difficult circumstances, that you took on that responsibility, that it should be a mark of great pride to you and an encouraging record for the country that I would make that statement. With the kind of record and the length of public service that you have behind you, I don't think there is anyone that would question your personal honesty and integrity. I don't think there is anyone who would believe that you would initiate yourself anything that would be improper.

There have been some questions raised in terms of concern about whether you would aggressively hold accountable all of those that would work with you in any agency of government to the same standards that you yourself would follow. And whether you would aggressively pursue any possibility of wrongdoing to learn the truth about it and to stop any kind of unauthorized behavior or improper behavior.

Now, I have been reassured by the kinds of comments that you have made today. I have been reassured by the manner in which you have volunteered to the committee and have obviously made an intensive effort to try to bring additional information to us. I appreciate that very much.

I would just like to ask you, and I think it would be important as a part of the record, as the members reflect on this hearing this evening and as they come to a final conclusion about your confirmation, for your personal feelings or your personal expression, your personal philosophy about the importance of accountability. Again, this is not to imply that the people with whom you would be working at the Central Intelligence Agency are not worthy of trust and respect. I think unfortunately, as I have said before, it is only when the agency goes astray, it is only when some failure occurs, that the agency usually comes into the fore in the media. Day in and day out there are a multitude of successes. There are an incredible number of able, honest people working in that agency. I don't think the quality of the people in that agency is surpassed by any other agency of government. I have great respect for the people that work in that agency. And it is unfortunate, by the nature of the enterprise, we are not often enough able to hold up and share with the American people the many successes that go on there.

But still, as the man in charge, not only accountable to this committee and accountable to the American people, but in charge of supervising that Agency—any agency that includes human beings of any kind is bound to require supervision—I wish you would express to the committee, for the record, your own philosophy and your own sense of commitment on that particular subject.

Judge **Webster**. I have a deep and abiding faith in this country and in its Constitution and in its laws. I think that no one has the right to hold public office unless they are committed to the faithful observance of those laws and who insist upon the faithful observance of those laws by all who are reporting in to the head of that agency or department.

I have tried to demonstrate that in my public life. I believe that as head of any agency, I am responsible for everything that takes place in that agency. I may not be able to prevent things from happening that happen though human error or though machine error, but I can through my own active interest in faithful compliance, demonstrate and insist upon a quality of performance that will give the highest level of faithful adherence to our responsibilities.

In the FBI I took that so seriously that for most of the nine years I have been in office I have operated without a Deputy in order to be sure that I indeed got most, if not all, of the information which I should receive in order to take appropriate action and to set appropriate policies.

I have had two special assistants, from outside the Bureau, distinguished young lawyers, whose job, without any line responsibility, is to roam the Bureau and to ask the hard questions from the non-institutional point of view about why are we doing it this way. I have personally, because the law requires me to do so, certified every Foreign Intelligence Surveillance Act application that has come through the Bureau. And there are several hundred every year. I have personally, and the law does not require me to do this, approved every application for a Title III Omnibus Crime Act that has come through me while I've been in Washington on duty. I've done that because I thought it would emphasize the responsibility of faithful adherence to procedures.

I mentioned the September order where I was concerned. We have followed those things through rigorously. When information comes to me that I have reason to question, I ask for facts. I bring people in. I talk not just to the people around me, but to the people who actually did the work. I personally review the disciplinary actions that are taken in the FBI and personally approve those of all the ranks of Assistant Special Agent In Charge or above to be sure that appropriate action is taking place. The Inspection Division and the Office of Professional Responsibility report directly to me as does the Office of Legal Counsel so that I can be sure that nothing is filtered from me that I need to know about the faithful adherence in terms of conduct.

I think the same principles apply to any agency and especially to the Central Intelligence Agency and the responsibilities of the Director of Central Intelligence. I recognize that in many respects, the agency operates beyond the protection of our Constitution in other areas of the world. But we do have our laws that apply to us in the agency. We do have laws that govern what we can do and what we can't do. We have oversight to which I have given a full pledge, because I think it is a two way street. I think that oversight helps in the faithful performance of our responsibilities. Now, those are some of the things that I have done to try to insure a high level of professional standards from our agents in the FBI.

I would not want to complete this kind of a statement, which I had not anticipated and I will probably think of several things tonight that I wish I had said in response, without saying that I have the highest respect for the men and women of the Central Intelligence Agency. They are performing an enormously important service for this country and its citizens. They have extraordinary, as you have pointed out, capability, extraordinary dedication to duty and they do so without any public praise. I would hope, as a part of any responsibilities that might come to me if I'm confirmed, to help the American people understand a little better the enormity of the work and the high quality of the performance that is going on, without attempting in any way to minimize my responsibilities to seek out and correct any areas in which conduct does not meet those high standards.

Mr. Chairman, I think that's about all I have to say.

Chairman BOREN. Well, Judge Webster, I don't think had you anticipated the question that you could have answered it any more eloquently or any more appropriately and I appreciate what you have said. I feel assured by the values which you have expressed. They are values that are reflected by your record of public service. Again I say that I think that this procedure that we have gone through has been a positive one. I say to my colleague from Pennsylvania that while I may not agree with every sentiment he always utters, I have great respect for him. I appreciate the fact that he does his homework, that he comes prepared to ask the questions that need to be asked as part of an oversight process. I respect him for that. I appreciate his contribution to this committee as I do the contribution of other members of this committee. I think we've all come through this process better able to render the kind of service and meet the kind of responsibilities we are called upon to meet. I would just say to you, Judge Webster, that having looked at the record very carefully, and having spent many hours and tried to familiarize myself completely with your qualifications and having listened to the values you've expressed that it's the intention of this Senator, as Chairman of this committee, to vote for your confirmation and to participate in recommending your confirmation to the full Senate. I will of course be casting that vote only as one Senator. The rest of this committee will make its own collective judgment and I will survey the members of the committee this evening to determine a time to be set for the committee to take action on your confirmation. I want to do that in a way that will be fair to all the members of the committee. I did send out telephone calls to all of them this afternoon, including some of those that were here earlier. I specifically talked to Senator DeConcini. He said he had satisfied himself in terms of the questions he had wanted to ask. He did not need to return to ask additional questions and I have sent notification to others. So I think every member of the committee has had a thorough opportunity to ask every question, and I will in fairness to all the members, try to schedule this vote as soon as possible, because I think it's imperative that we have a Director, a permanent director, in that critical position as soon as possible. Again, I thank you for your participation. Senator Specter and my colleagues have been participants in this process and the hearings will stand in recess. Thank you.

[Whereupon, at 6:41 p.m., the Committee was recessed, subject to the call of the Chair.]

NOMINATION OF WILLIAM H. WEBSTER TO BE DIRECTOR OF CENTRAL INTELLIGENCE

FRIDAY, MAY 1, 1987

U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, DC.

The select committee met, pursuant to notice, at 12:30 p.m., in room SD-628, Dirksen Senate Office Building, Hon. David Boren (chairman of the committee) presiding.

Present: Senators Boren, Nunn, Hollings, Cranston, DeConcini, Metzenbaum, Cohen, Hatch, Murkowski, Specter, Hecht and Warner.

Staff Present: Sven E. Holmes, Staff Director and General Counsel; James H. Dykstra, Minority Staff Director; and Kathleen P. McGhee, Chief Clerk.

Chairman BOREN. The committee will come to order. This meeting has been called for the purpose of taking a vote on the nomination of William Webster to be Director of Central Intelligence. The committee has had a brief meeting this morning with Judge Webster on a classified matter. At the conclusion of that meeting, the committee also, by unanimous consent, waived the provisions of Rule 5.5 to allow the committee to proceed to take this vote at this time.

So, without further ado, the clerk will call the roll on the confirmation of William Webster to be Director of Central Intelligence.

Mrs. MCGHEE. Mr. Bentsen.

Chairman BOREN. Aye by proxy.

Mrs. MCGHEE. Mr. Nunn.

Senator NUNN. Aye.

Mrs. MCGHEE. Mr. Hollings.

Senator HOLLINGS. Aye.

Mrs. MCGHEE. Mr. Bradley.

Chairman BOREN. Aye by proxy.

Mrs. MCGHEE. Mr. Cranston.

Senator CRANSTON. Aye.

Mrs. MCGHEE. Mr. DeConcini.

Senator DECONCINI. Aye.

Mrs. MCGHEE. Mr. Metzenbaum.

Senator METZENBAUM. Aye.

Mrs. MCGHEE. Mr. Roth.

Senator COHEN. Aye by proxy.

Mrs. MCGHEE. Mr. Hatch.

Senator HATCH. Aye.

Mrs. McGHEE. Mr. Murkowski.

Senator MURKOWSKI. Aye.

Mrs. McGHEE. Mr. Specter.

Senator SPECTER. Aye.

Mrs. McGHEE. Mr. Hecht.

Senator HECHT. Aye.

Mrs. McGHEE. Mr. Warner.

Senator WARNER. Aye.

Mrs. McGHEE. Mr. Cohen.

Senator COHEN. Aye.

Mrs. McGHEE. Mr. Boren.

Chairman BOREN. Aye.

Senator SPECTER. Mr. Chairman, I have a statement I would like to make when the time is appropriate.

Chairman BOREN. The Vote, 15 in favor, none opposed, and the recommendation of the committee to the Senate will be that Judge Webster be confirmed as the Director of Central Intelligence.

I appreciate the attendance of my colleagues, and any that would like to make a statement at this time. Senator Specter is recognized.

Senator SPECTER. Thank you, Mr. Chairman.

I have voted for Judge Webster to be Director of the CIA because I am satisfied that he is qualified for this important position. But while the evidence does not raise a serious question about his qualifications to be CIA Director in the context of his long distinguished record of public service, his confirmation hearings do suggest that the FBI and to some extent Judge Webster himself did not respond to clear warnings to stop Lieutenant Colonel North's improper if not illegal activities.

These hearings should give guidance for the future. It may be that Lieutenant Colonel North's key position in the National Security Council in conjunction with the President's strong personal support of the Contras created a climate where the FBI winked at possible violations of law involving the Contras. Frankly it is hard to understand why Judge Webster did not act in the face of the FBI memorandum which he initialed, dated October 30, 1986, that Lieutenant Colonel North be excluded from confidential information because, quote, "North may soon be involved in a criminal probe concerning U.S. activities in Central America by a Special Prosecutor,"

The memorandum contains an even more important danger signal from counsel to the Attorney General for Intelligence Policy that, quote, "It would not be possible to advise other persons in the NSC and be assured that technically derived information would not be made available to Lieutenant Colonel North," unquote.

In the face of widespread media reports that Lieutenant Colonel North was sent copy of FBI files about the Contra network, in effect letting him monitor the investigation of his own activities, it was disquieting for me to learn of North's extensive contacts with FBI agents, with calls going to North at the White House, and of his request to Executive Assistant Director Revell to defer the questioning of a suspect in a fraud case and to postpone the appearance of a witness before a Federal Grand Jury. Judge Webster said that Mr. Revell erred in failing to report to Judge Webster Mr. Revell's contacts with that Assistant U.S. Attorney.

Further serious questions were raised on a July 18, 1985 cable to FBI headquarters which apparently never arrived. That cable contained the assertion that Lieutenant Colonel North personally discussed aid to the freedom fighters with President Reagan, that Lieutenant Colonel North asked the FBI to delay an interview with the fraud suspect, and that Lieutenant Colonel North was dealing with alleged Saudi prince through an intermediary because it was not advisable for North, as a member of the NSC, to deal directly in light of the legal prohibition against aiding the Nicaraguan insurgents.

On the record, as I see it, these key FBI documents cannot be charged against Judge Webster for purposes of these confirmation hearings because there is no evidence that he received them.

At a minimum his confirmation shows the need for preventative measures to stop the kinds of contacts which Lieutenant Colonel North had with FBI officials and to insist on rigorous investigative standards by the FBI and other Federal agency to follow the law, notwithstanding what Judge Webster himself described in hearings here yesterday as quote, "White House influence," close quote.

Thank you, Mr. Chairman.

Chairman **Boren**. Thank you, very much, Senator Specter, and again I want to express my appreciation to the members of the Committee, and these confirmation hearings are adjourned.

[Whereupon, at 12:35 p.m., the hearing was adjourned.]

Remarks by William H. Webster, Director, Federal Bureau of Investigation, Before the Association of Former Intelligence Officers, Fort Myers, VA, December 8, 1986

Thank you very much, and thank you, Ray. It's a great pleasure for me to be here, and I particularly enjoyed your introduction since it was called to my attention that I was described in *Parade* magazine as the "anonymous Director of the FBI" on Sunday. That's just all a part of my ability to perform covert operations.

I want to take just a second—I wasn't going to do this—but I'll take just a second to establish my credentials with you former intelligence agents.

George Washington had a spy by the name of Katie Montgomery who carried messages in her clothing across the lines in North Carolina. In each succeeding generation, there has been a Katie in our family, including my great-aunt, my mother, my daughter, and my granddaughter.

I'm not sure that that establishes me here in this room, but it has worked elsewhere.

I would, however, like to mention Malcolm Forbes' gift to me, which he also gave to Bill Casey, of a letter from George Washington to one of his majors. This letter described the usages of tradecraft, discussed how to write invisible ink messages, and indicated that such a message was in the letter and how to find it. It's a very interesting letter. Malcolm paid $115,000 for it . . . and I was glad to have a reasonable facsimile of it at no cost to the Bureau.

The letter does show, I think, that, from time immemorial, intelligence has been extremely crucial and so regarded by our leaders in the field.

Certainly, as we commemorate Pearl Harbor Day today, we cannot help but think of the crucial importance of getting intelligence—meaningful intelligence—and having the ability to understand its meaning and take appropriate action on it. That's certainly true in the military in time of war; it is equally true in time of peace.

I know it is true in our own terrorism program, as we looked back upon what, I think, in the last eight years has been a proud record of reducing the number of incidents in this country, as compared with the rising problem of terrorism throughout the world. When people ask me, "How were you able to do it? To what do you contribute it?" I give credit to a lot of things. But I say first and foremost: intelligence. You cannot get there before the bomb goes off unless you have the intelligence to know that the bomb may go off; where it may go off; and who will set it off. The construction of that quality of intelligence, almost from scratch—after the Church and Pike Committee days, which made that type of intelligence-gathering so unpopular in law enforcement circles—has made the difference, in my opinion, between what we face in the United States, and what other countries in the world have been facing.

And so I, at every opportunity, stress the importance of intelligence. I would emphasize, too, that intelligence means something more than just gathering enormous amounts of data about every aspect of problem areas. It means a focused attention upon the real problems—the real targets. By pushing our resources in specific areas—for example, at twenty or so active domestic terrorist organizations—we'll gain much more than we would by spreading ourselves as an inveterate intelligence-gatherer of irrelevancy. Unfocused intelligence gathering only complicates the work of the analysts, consumes our resurces, and undercuts our public support and confidence.

Today, I believe we have the right measure of balance in our focus, at least in domestic terrorism. But that isn't really what I came to talk to you about. I want to talk about our role with other intelligence agencies in counterintelligence.

Today, our citizens are thinking very hard about national security. They've seen Vladimir Izmaylov of the GRU caught picking up classified information at a drop site, and they've seen him interdicted and expelled. They've seen Gennadiy Zakharov, more recently, arrested and indicted—and they've seen a Soviet reaction to that indictment that aroused the indignation of the world and terminated in the expulsion of 80 Soviets from their diplomatic missions in the United States—80 Soviets whose business it was to engage in intelligence activity here in the United States. They've also seen American spies discovered in all our sensitive agencies, as well as in sensitive industries. In the past three years alone, more defendants have been charged with espionage than the preceding 18 years.

These troubled 80's have been a time of success and disappointment, a time of reexamination and refinement, for all the members of the intelligence community. I think it's pretty clear that each agency must continue to improve its responses to the national intelligence effort and, just as importantly, must work hard to share information and coordinate efforts with each other.

As the investigative law enforcement arm of the intelligence community, the FBI concentrates its efforts on counterespionage. We strive both to reduce our nation's vulnerability to hostile efforts and to neutralize hostile activity through counterespionage. I'd like to talk to you today about how we're meeting these challenges—and what further efforts we believe are necessary to protect our national security.

Our counterintelligence efforts work around a very basic problem. There are too many hostile intelligence officers, too great a hostile presence in this country. We have to identify that presence today.

From 20,000 students from communist countries who study in our schools;

From 90,000 visitors from communist countries who arrive on our shores each year;

And from over 4,000 communist diplomatic and commercial officers who are based in the United States—one-third of whom are believed, reliably, to be charged with intelligence-gathering activities by their own governments.

Furthermore, we are observing an increased aggressiveness on the part of these hostile services to collect our scientific and technical, our political, and our military information. The Soviets, in particular, have closely focused their efforts: they have specifically targeted our technology that is used for weapons, weapon systems, and military support equipment. And they have adapted their recruitment techniques to appeal to the worst in human nature. They call it the "typical American attitude toward money"—an attitude that says that it's okay to sell anything if the price is right.

In years past, we have investigated Americans who agreed to spy for reasons of ideology and personal political conviction. But today, we are confronted with a new breed—a breed of volunteer spies who are motivated primarily by their own greed. Their treachery may be colored by job dissatisfaction or by a desire, occasionally, for excitement or even revenge. But we come across very few instances where money isn't changing hands.

Just look at the track record for the 1980s. David Barnett, William Holden Bell, James Durward Harper, Thomas Cavanagh, the Walkers, Jerry Whitworth, Ronald Pelton, Jonathan Pollard, Bruce Ott—all were looking to make a "fast buck." Only one aberration: Allen John Davies, who recently tried to pass classified documents to the Soviets to avenge himself on the Air Force. As the indictment charges, he was angry about an ongoing dispute over just $1,200. He tried to give away precious military secrets for reasons of spite. Nevertheless, he certainly wasn't motivated by ideology or conviction.

The lack of conviction of this new breed makes it more difficult to go to the place where we are most likely to find those who would betray their country. It makes them more difficult to identify as we did in years past. It represents a tremendous challenge for us.

The question then is: how can we reduce or control the numbers of hostile agents and potential spies in our country? We do not have—nor do I think we ever will have—enough personnel to keep track of everyone who comes into this country with intelligence-gathering missions, and we certainly don't have enough personnel or resources to keep track of every citizen. Nor do we want to investigate the activities of law-abiding citizens without just cause.

In this regard we are different from our competition: we do not subscribe to the block-control, the block-watch concept. We have to have something more consistent with our open and democratic society. As our main tactic, therefore, we "spiderweb" known or suspected intelligence operatives. Spinning our webs with physical and electronic surveillance—all electronic surveillance being court authorized, by the way—we weave a barrier between hostile agents and our citizens. We hope that the barrier itself will frighten off potential traitors. But if contact is made, we want to be in a position to detect the individual who is thinking about selling secrets to our adversaries.

To tighten these webs, focusing as we do on the hostile intelligence service rather than upon our citizens, we've increased the number of our Agents in the field. We've increased our recruitment-in-place, perhaps the most valuable, most important, and most cost effective of our efforts. We're running double agents to step in wherever possible with undercover operations. And we're implementing dangle operations. The dangle technique is unusually important to us because it serves to keep our enemies off balance. Because of successful operations like the Dr. Zehe case and the Izmaylov case, the Soviets are never really sure, these days, when a volunteer shows up for a real buy, whether they are dealing with a potential traitor or with someone working for the FBI.

Our number-one resource has always been and, I believe, will always be the human intelligence-gathering agent. But today, our Agents in the field are now supported by improved technologies and expanded resources that are clearly making a difference in our overall counterintelligence program.

We have Special Surveillance Groups that act as the eyes and ears of our Agents. By conducting physical surveillances and by securing and controlling locations and individuals in undercover operations, they provide a dimension to investigative operations that cannot be duplicated by other means. Time and time again, these specialists have shaped an investigator's suspicion into a prosecutor's fact.

We've expanded our corps of language specialists to conduct technical collection.

We have a computerized intelligence information system to help process information and to assist in prosecutions.

And we have a corps of intelligence research specialists who analyze the data and piece the fragments of intelligence into explicable patterns.

I might mention, too, that in our computer efforts we now have a program well on its way to permitting us to use artificial intelligence to identify and guide our Intelligence Division operatives in taking on the more complicated and ambiguous tasks.

All in all, I believe that we have made impressive strides in our counterintelligence efforts in recent years. And if 1985 was hailed by the press as "The Year of the Spy," 1986 has certainly turned out to be "The Year of Icing the Spy."

Since the beginning of 1984, 28 people have been arrested for espionage, and 26 convictions have been secured. Allen Davies, of course, awaits trial. Only Richard Craig Smith, of all of those charged, was acquitted. That's an all-time record since World War II.

Just since the beginning of 1985, our Government has formally or informally expelled over 90 hostile intelligence officers, based on information developed by us and by other agencies in the intelligence community.

I'm particularly satisfied with Zakharov's arrest and expulsion—he was clearly just beginning to call in his markers so that he could return triumphantly to Moscow at the end of his tenure, which was not far away.

Eighty of the total number of expulsions, of course, occurred this fall in the wake of Zakharov's arrest. At long last, with these expulsions, the diplomatic equivalency terms of the Leahy-Cohen Amendment have been achieved. Even better, the 80 Soviet officers who left were the top intelligence officers known to or indentified by us. Their departures will make an enormous hole in Soviet intelligence-gathering activities in New York, in Washington, and in San Francisco.

And what was our punishment in return? The punishment was the withdrawal of 260 spies from our embassy in Moscow—another goal we had set for ourselves that was accelerated, compliments of Mr. Gorbachev. I know that our officers in Russia are put to unusual discomfort and stress, but they are bearing up well under it. It will be a matter of pride for them to have outlived this problem, and we will have achieved a major effort on both sides of the Atlantic as a result of what has taken place.

The real proof of our efforts, however, I think is best shown in our actual investigations. And, today, I'd like to highlight briefly our Pelton case, because I think it demonstrates so many important features of today's counterintelligence efforts.

Ronald Pelton worked for 14 years as a communications specialist in the National Security Agency. Although he didn't have much education, he was a highly intelligent man with a remarkable memory for technical data. Over time, he was given more and more responsibility at NSA, until, in 1978, he wrote a 60-page report on what the United States knew about Soviet signals intelligence.

The next year, Pelton's life fell to pieces. He declared bankruptcy, quit the NSA, and failed at one get-rich-quick scheme after another. Thinking he could recoup his losses by selling his last marketable product—his memory—he called the Soviets. One phone call later, on January 15, 1980, Pelton entered the Soviet embassy. When he left three and a half hours later, he had shaved off his beard, was wearing Soviet work clothes, and went out with other men in a van close to the exit door.

We saw him go in, saw his back side, and we could not identify his exit. We had knowledge of these events, but they were odd fragments of information that simply could not be put together in a larger context. Remember that this was 1980. Importantly, these facts were retained, and the effort continued.

Then, when Yurchenko defected, we learned that an unnamed NSA employee had been providing the Soviets with information since 1980.

We quickly formed a joint NSA-FBI task force, and we began pouring over NSA files, looking for possibles. I believe that there were some five hundred possibles as we began this effort. Through an interveiw with Yurchenko granted by the CIA, we almost inadvertently learned that the man we wanted had red hair. When we pushed Yurchenko to describe the exact shade of brown hair that he had earlier identified, Yurchenko pointed to a red color. And with this critical piece of information, we made the identification—and confirmed it when NSA employees identified Pelton's voice on calls to the Soviet embassy in 1980.

The rest of the case is history. Pelton was arrested November 25, 1985, and was convicted on May 6, 1986. We learned from the investigation just how critical interagency cooperation can be. We needed CIA access to Yurchenko. We needed NSA cooperation as much as it needed ours. And, as a sidelight, we also learned the effectiveness of one of our countermeasure techniques. When the Soviets asked Pelton to return to NSA as their mole, he said, and I quote: "I can't. I won't pass the polygraph." Clearly, polygraphing can act as a great deterrent when used judiciously.

Successful investigations like that of Pelton may demonstrate that coordinating efforts among members of the intelligence community can make the system work. But it's legitimate for you to ask, are we winning overall?

Well, on the balance, I think that the FBI is in a better position today than it was 10 years ago—or even 5 years ago. But you know as well as I do that in the counterintelligence business no service can be expected to "win" every time. After all, our adversaries are also using well-trained professional intelligence officers.

I believe, however, that we will continue to make headway, maintaining the present momentum, and will continue to close the weak links in our national security, so long as we continue to identify and address issues that do, in fact, relate to our national security.

As right now I can think of several national security issues that need to be met: issues that concern the internal security of sensitive agencies; issues that concern inter-agency cooperation; and issues that concern public awareness of and support for intelligence operations—a vital part of getting the resources and the authority to do what needs to be done.

First, we can and must implement more strenuous security countermeasures. And I underscore the tremendous work that General Dick Stilwell has done in alerting our community to the importance of that first critical step.

We must improve screening procedures for employees in senstive areas—not only when they're hired, but during the course of their employment, and even after they leave the organization.

Further, we must carefully consider procedures and guidelines for the use of employee drug testing. The FBI, for example, now routinely tests its incoming Agents—and it is formulating a policy for random objective testing of its employees. I cannot emphasize too strongly the security threat posed to us by an employee who uses drugs. If hostile agents have been quick to seize on Americans' weakness for financial gain, imagine how quickly they can take advantage of those dependent upon drugs.

Second, we must all strive for inter-agency cooperation—sharing resources and information as necessary to protect our national security. The FBI's counterintelligence role, for example, is critical to all intelligence efforts. Collection and analysis cannot produce reliable results—and covert action cannot be effectively conducted—unless we know what hostile (and occasionally even friendly) services might do to turn our intelligence activities to their advantage. There must be no penetration of our intelligence-gathering apparatus.

Conversely, the FBI depends on the rest of the community for critical leads. We certainly needed access to the defector Yurchenko to begin our investigation of Ronald Pelton. I chair an inter-agency committee called the IGCI, the Inter-agency Working Group on Counterintelligence, a part of the SIGAI, as you know the Special Inter-agency Group on Intelligence chaired by Bill Casey. Again and again here, I have seen us coming together to devise a central strategy to deal with counterintelligence problems here and around the world.

Third and last, for today's discussion, we need to reach the public. You know from your own work with public educational programs that an informed American public is a public willing to assist intelligence efforts.

Several years ago, for example, a student at Columbia University watched a TV documentary on the KGB and realized, with horror, that he was quite possibly being recruited by Penyu Kostadinov, a Bulgarian commercial attache. This student notified the FBI, and we subsequently arrested Kostadinov for espionage.

I would call for more public programs—and practical ones at that—that will alert our citizens to the telltale signs of security weaknesses. I'm proud of the work that Morris Leibman is doing to alert the lawyers across our country of their importance. They're opinion makers in many ways, and it's important that they support this effort. Morris is doing a tremendous job on the National Security Committee of the American Bar Association.

In our own effort, DECA—the FBI's Development of Counterintelligence Awareness Program—we educate defense contractors in standard recruitment techniques. Fifteen thousand Government contractors have been reached so far. These kinds of programs will work—and they do work. Jonathan Jay Pollard, the analyst for the Navy's Anti-Terrorism Alert Center, was caught because fellow employees noticed and reported that he was requesting documents outside his need-to-know area. This arrest wasn't the result of our DECA program, but it illustrates what an alert and informed employee can do to help the effort. It's our job to get the employers to incorprate programs that will produce that kind of alertness.

There are many ways that I could close this part of the program today. My own assessment is that we are combining the best of human intelligence-gathering capabilities with modern scientific electronic computer analysis and with other devices, too sensitive to discuss in detail, to keep track of the hostile intelligence presence in this country—to recognize it, to "spiderweb" it, to make it virtually impossible for an American traitor to make contact without our knowing about it.

Again and again, we have seen instances where the Soviets have refused to meet with people who are trying to meet with them. As you know, in a couple of those instances in the past two years, we've run undercover operations against those people, caught them, found out what they had, made the arrests, and made the prosecutions and the convictions. Many of the meetings are taking place in Mexico because it is now too difficult to meet in the United States. We want to keep it that way.

We can only keep it that way if we have the balance between our resources and their resources. I have argued in public tesitmony that, in my opinion, the best way to approach this balance, wherever possible, is to reduce the Soviet and Soviet bloc presence in the United States. I always point out that one-third of this presence, at least in the diplomatic community, represents hostile intelligence operatives. It isn't any good to give us an additional Agent to take care of one additional spy—and I don't need to tell this audience why it's no good to do it that way. But when we can *eliminate* one Soviet spy, we can concentrate our considerable resources on the other problems that remain. I think the Congress and the administration are in concert on this issue, and our "spiderweb" approach to dealing with counterintelligence will become increasingly effective. These efforts, taken together, are needed to keep our country strong.

As I listened to what Ray had to say this morning, I thought of the same people who have given their lives for their country, particularly those at Pearl Harbor. During the Korean War, I was executive officer of a tanker operating out of Pearl Harbor to the Far East, and we berthed right across from the Arizona, which at that time, was its own memorial. It didn't even have a housing over it. Being there, you couldn't help but think of the people who had given so much to keep our country the way it is today.

These same thoughts occurred to me last night at the Kennedy Center, when the program closed with a tribute to Ray Charles by the boys and girls of the Florida School for the Blind and the Deaf. A hundred children must have been on stage—some were using sign language, and those who could not see were singing; in their own ways, all were singing "America, The Beautiful." And I think that's our job—to keep it that way. Thank you.

SPEECH BY WILLIAM H. WEBSTER, DIRECTOR, FEDERAL BUREAU OF INVESTIGATION, BEFORE THE NATIONAL SECURITY AGENCY, SECURITY WEEK, WASHINGTON, DC, OCTOBER 27, 1986

Thank you very much General Odom. Ladies and gentlemen, it's a great privilege for me to be here. I can't tell you how many times I've sat in this audience and coveted that Travis Trophy—but I haven't figured out how the FBI can become eligible. We have some international jurisdiction now; perhaps that might give us a shot at it.

These past few weeks have been momentous ones in the intelligence community, not the least of which was the recent NSA dedication by the President of the United States—a first, I understand, in the history of this great agency. And other things have been going on between us and Moscow which I would like to mention a little bit this morning, things that I think augered very well for us in terms of carrying out our mission and that prevented the Soviets from carrying out theirs.

National security is a serious concern in these "troubled 80s," and terrorism and espionage are two virulent forces that specifically target our national security. These two forces are quite different in many ways, and I will discuss them separately, but they are alike in that both strive to undermine the soundness of our Nation's health and well being.

Espionage invades the body politic silently like a virus attacking our immune system, proceeding inconspicuously but with grave effect.

Terrorism, on the other hand, attacks it outright, traumatizing it in unexpected places and often producing fear far beyond the actual damage done.

As members of our Nation's intelligence community, we are the guardians of this body politic. You are the eyes and ears of the national effort: In the fields of signal intelligence and communication, you at NSA are tasked to preserve our Nation's intelligence and to penetrate that of our enemies. We from the FBI, by contrast, are the hands and arms of this effort. We are the only law enforcement agency in the intelligence community, and we are tasked to investigate foreign counterintelligence and terrorism within—and sometimes outside—the United States.

Together, our organizations have worked well as a team. We are always ready to support your foreign intelligence collection efforts, and you've provided excellent intelligence support for our operations. I think the Pelton case illustrates perfectly what can happen when we share resources and intelligence.

Today, however, I would like to concentrate on the FBI's special role in counterintelligence and counterterrorism efforts. Both, as you know, are FBI responsibilities, and we have elevated both to national investigative priority programs.

COUNTERINTELLIGENCE

Counterintelligence efforts are complicated by two obvious factors. There are two many hostile intelligence agents in our country trying to make recruitments. And there are too many self-selected "volunteer" spies—Americans—who are motivated by greed, by job dissatisfaction, even by murky ideas of excitement or revenge. It's a difficult equation, because in combination, the two factors increase many fold the chances of sensitive intelligence reaching our enemies.

Just as obviously, then, our overall strategy must be to reduce or control the numbers on both sides of the equation. We do not have, however—and I suppose never will have—enough personnel to keep track of everyone who comes into this country with intelligence-gathering missions. And we certainly don't have enough people to keep track of every citizen—nor do we want to investigate the activities of law abiding citizens without just cause. We cannot transform ourselves into the types of police states that are currently controlled by our enemies abroad.

As our main tactic, therefore, and with your help, we "spiderweb" known or suspected intelligence operatives. Spinning our webs with physical and electronic surveillance—and I might add, always court-authorized electronic surveillance—we weave a barrier between hostile agents and our citizens. Contact becomes difficult if not impossible when the spiderweb system is working. We see more and more meetings taking place in Vienna and Mexico, and fewer and fewer meetings taking place in the United States.

To tighten our webs, we have increased the number of our agents in the field, and tasked many of them to develop recruitments-in-place, to control double agent operations, to step in where possible with undercover operations, and to implement our dangle operations. The dangle technique is especially important, because it serves to keep our enemies off balance. Because of successful operations like the *Dr. Zehe* case and the *Izmaylov* case, the Soviets are never sure when a volunteer spy shows up with a "real buy," whether they might not actually be buying a one-way ticket back to Moscow.

All in all, I believe we have made impressive strides in recent years. And if 1985 was hailed as "the year of the spy," 1986 has certainly turned out to be "the year of icing the spy."

Since 1984, 27 people have been arrested for espionage, and 26 convictions have been secured. Only Richard Craig Smith was acquitted. That's an all-time record since World War II.

Just since the beginning of last year, our government has formally or informally expelled over 10 Soviet and bloc officers, based on information developed by us, you, and other agencies in the intelligence community. I note with pleasure Zakharov's arrest and expulsion—he was clearly just beginning to call in his markers so he could return to Moscow in triumph.

I'd also like to note that 25 Soviets based in the U.N. mission have been ordered to leave—and have left—and 55 more were earmarked for expulsion just last week—a good start, I believe, toward achieving the diplomatic equivalency terms of the Leahy-Cohen amendment, which clearly reflects the policy of the current administration. And I'd also like to say as a footnote that we in the FBI are enormously pleased and even excited that, through inadvertence and miscalculation, by failing to get the first 25 out on time, the Soviets opened themselves up to our selected reductions in force. The 25 who had to leave and the others who are going, are the top intelligence officers known or identified to us. Their departures will make an enormous hole in their intelligence-gathering capacities in New York, Washington, and in San Francisco.

And I think I have an obligation to recite our most recent bittersweet victories of catching American spies.

In the private sector, Thomas Cavanagh, an engineer for Northrop Corporation, showed how effectively our undercover techniques do work. When Cavanagh contacted the Soviets to offer them the priceless Stealth technology, we detected the contact in our spiderweb. We beat the Soviets to Cavanagh's doorstep, sending Russian-speaking undercover agents to meet with him. Our agents agreed to his deal and came away with samples of what Cavanagh could produce—samples that astonished and shocked those at the Pentagon. For $25,000, Cavanagh was willing to give away one of the great military secrets of this country, which I am told cost over $1 million in research.

But private industry is by no means the only weak link in internal security. We've certainly learned that sensitive Government services are also vulnerable.

We have been saddened by the treachery of our former agent Richard Miller. You have been touched by the betrayal of your analyst Ronald Pelton—and I understand that others later in the week have planned an excellent step-by-step presentation of the *Pelton* case for you. The CIA has suffered over Edward Lee Howard and Larry Wu-Tai Chin. Naval intelligence has contended with the Walker family and Jerry Whitworth; Army intelligence, with Richard Craig Smith; and the Air Force with

Airman First-Class Bruce Ott. Clearly, we must all work together in the area of internal security to close our weak links.

We can and must implement more strenuous screening procedures for employees in sensitive areas—not only when they are hired, but during the course of their employment, and even after they leave the organization.

We must carefully consider procedures and guidelines for the use of employee drug testing. The FBI, for example, now routinely tests its incoming agents and is formulating a policy for the random objective testing of its employees. I cannot emphasize too strongly the security threat posed to us by an employee who uses drugs. If hostile agents have been quick to seize on Americans' weakness for financial gain, imagine how quickly they will take advantage of those dependent upon drugs.

And we must strengthen our training programs to educate the public in standard recruitment techniques. In DECA—our "Development of Counterintelligence Awareness" program—we have already reached over 15,000 Government contractors. Programs that alert the public to the tell-tale signs of spies at work can have a direct payoff, as in the case of *Jonathan Jay Pollard,* the analyst for the Navy's anti-terrorism alert center, who was caught because fellow employees noticed and reported that he was requesting documents outside his need-to-know areas.

Countermeasures become a very important part of the whole security area—one I cannot discuss today, because it's outside the scope of my remarks—but I do want in a footnote to underscore how important it is for each of our agencies to be sure, first, that we have taken the necessary steps to protect the security of the secrets entrusted to our care and, second, that we have followed through with those to whom that information is disseminated. We must be certain that they too have taken appropriate steps to protect those secrets.

TERRORISM

Let's turn now to the issue of terrorism. Terrorist investigations begin with the profile of a terrorist. Motivated by emotional politics and hatred, terrorists take violent action against easy targets primarily to gain media attention for their particular cause—it's theater. Wherever they live, they band together in ideological cells and are as difficult to penetrate as they are to understand. Consequently, good intelligence is hard to come by, and the intelligence that is developed comes in fragments that don't easily fall into meaningful patterns.

Also, terrorists complicate investigations by their hit-and-run tactics. Committing crimes to gain money as well as to make political statements, they move from jurisdiction to jurisdiction—requiring law enforcement agencies to connect with each other, to share information with each other, and to coordinate investigations. That's why it's important to have an FBI with national jurisdiction to move quickly across those boundaries to link in with state and local law enforcement authorities. This, in my opinion, has been one of the principal problems in Europe. A Balkanization process occurs when countries are unable or unwilling to share information or to follow through on quick arrests and apprehensions because they perceive acts of terrorism as political rather than criminal activities. The result is confusion when overall efforts are attempted in order to deal with terrorism on the European continent.

Given these circumstances, the FBI designated terrorism as a top priority program in 1982. Our aims were, and they are, to detect and prevent domestic and international terrorist activity in the United States and to investigate those acts of terrorism abroad which have—by statute—been made prosecutable in our country. Why have we been given jurisdiction? I think because our jurisdiction puts considerable heat on the other nations with whom we're involved to do something themselves. It also reflects our country's determination to deal with terrorists who are focusing upon United States citizens, institutions, and property. And it means that we must gather the intelligence and information promptly while it's still alive and fresh, even though the actual apprehension of the terrorist is off in the vague and indefinite future. But if someone does show up who is wanted by us and we have the evidence—as the Italian government said we did not in *Achille Lauro*—we're in a better position to enforce our extradition treaties and to call upon Interpol to make prompt and effective arrests.

In the United States, we are currently investigating 20 different groups. We are investigating right-wing terrorists like Aryan nations, the Order, the Covenant, the Sword, and the Arm of the Lord, and Posse Comitatus; we're investigating left-wing terrorists of the United Freedom Front, Puerto Rican Independence Groups, and the Prairie Fire Organizing Committee; and we are investigating extremist elements in the United States among Armenians, Croatians, Sikhs, Jews, and Arabs.

We have developed three primary strategies that enable us to combat terrorism effectively.

First, I put great effort into developing an extensive intelligence base on terrorist groups. Only by constantly feeding the small pieces of information that we glean into a central bank can we hope to put together a larger picture and detect emerging patterns. And we must do this pursuant to the Attorney General guidelines and the restrictions of the Privacy Act. Developing the larger picture is now the job of our Terrorist Research and Analytical Center [TRAC]. TRAC analysts and computer experts review the information we receive about terrorist activities, then make related threat assessments. I think this process is probably most responsible for the success we have had in recent years in preventing terrorist incidents from taking place. When I first came to the bureau almost eight-and-a-half years ago, it was almost an assumed fact—certainly by the Congress—that we could not get there before the bomb went off. Intelligence . . . intelligence has made the difference.

Second, we concentrate our most sensitive techniques—undercover agents, informants, and court-authorized electronic surveilliance—on our targeted terrorist organizations. Our guidelines now permit us to maintain threshold intelligence levels on all those organizations, just as we have been allowed to do without any question in the past on organized crime and racketeering groups to gather the same kind of intelligence. For years we were frustrated by a concern that we would invade the first amendment rights of various organizations. I think we dealt with that primarily by showing the tests, the thresholds, and the standards we use for conduct—not words, but conduct. Also, we are focusing hard upon, currently, 20 different groups—as distinguished from several thousand groups that we were investigating in the 1970's. This focus keeps us from diffusing our resources and allows us to develop an analytical capability that can get us there first.

Our third and final strategy addresses one of our thorniest problems: how to coordinate effectively the investigations of different law enforcement agencies. I emphasize this strategy because of its implications for international efforts against terrorism. When specific and persistent terrorist-related activities flourish in a particular area, law enforcement agencies should pull together—and they should work together—in well-coordinated task forces. When Federal, State, and local agencies pool their resources and personnel, duplication of effort is minimized and—at least as important—a spirit of cooperation replaces the usual hard edge of competition. We have seen that in terms of our joint task forces in New York City—exemplified, of course, in the successful celebration of the 100th Anniversary of the Statue of Liberty. Thirty thousand boats in the harbor and not a single incident. Two years before that, the well-planned and well-coordinated task-force effort made a safe and terrorist-free Olympics in Los Angeles.

The results of our strategies are encouraging. Within our borders we have seen a heartening decrease in the number of terrorist incidents—in stark contrast to the rest of the world. From the 112 acts of terrorism recorded in 1977—using the same criteria—we have, each year, reduced the number: 31 in 1983; 13 in 1984; 7 in 1985; and only one confirmed this year. There may, however, be three or four others out in Hayden Lake, where the Aryan nations has operated, that may ultimately be determined to be terrorist inspired. No loss of life there. Still an extraordinarily small number.

At the same time, we have improved our record of preventing incidents. Last year we prevented 23 incidents from taking place in this country. Our interventions in the planned assassinations of Roberto Suazo, President of Honduras, and Indian Prime Minister Rajiv Gandhi, I think, demonstrate how well the system can work.

Above all, each day we add to our intelligence database—often with your assistance—continually expanding our knowledge of terrorist groups; continually diminishing their power to hurt us unexpectedly.

What then, can we do about acts of terrorism that strike outside our borders? Certainly we have a large stake in this matter since Americans traveling abroad are targeted by terrorists, as we well know. To date, in fact, over 30 percent of all victims of terrorism overseas have been Americans.

We have already made some progress in our efforts to investigate those acts of terrorism abroad which are prosecutable in our country. The Comprehensive Crime Control Act of 1984 enabled us to investigate the hijacking of TWA flight 847, the *Achille Lauro*, and, most recently, Pan Am flight 73. The protection of foreign officials statute has enabled us to investigate the killing of Marines in El Salvador. And, as you know, FISA has allowed our approved intercepts to be used as evidence in court against international terrorists.

But we cannot by ourselves—nor can any individual country—even begin to wage a successful campaign against terrorism. Only through serious cooperation and concerted actions can nations ever hope to rid the world of this terrible scourge.

Today we are seeing many serious and thoughtful efforts to contain terrorism. On December 9th of last year, the United Nations General Assembly passed, by consensus vote, its first unequivocal resolution condemning terrorism. Eleven days later, the U.N. Security Council adopted a resolution that condemned all acts of hostage-taking and urged international cooperation to prevent, prosecute, and punish hostage-taking as an act of international terrorism. These resolutions were a long time coming—and still don't address practical counterterrorism procedures.

By contrast, Interpol's similar resolutions have produced some practical results. And I want to say that the American delegations to Interpol over the last four years have been primarily responsible for these initiatives and these results. By resolving in 1984 that acts of terrorism should be viewed as crimes—and that's the bottom line, as crimes and not as politically motivated events—it, in effect, invited its member nations to use network for cooperative efforts in terrorism. And now it is hammering out the guidelines to be used for reporting and coordinating terrorism information. We finally got the message through that when acts of violence are committed against innocent victims, they are crimes. And because they are crimes, all of the apparatus for international cooperation among police should be invoked to deal with them. And that's now what's beginning to happen.

Governments around the world are also recognizing that unilateral reactions to a terrorist incident are not always effective.

Today, more and more bilateral and—I think, more importantly—multilateral agreements are being forged among nations.

Joint declarations of unity on the issue of terrorism have been drafted on four separate occasions by Japan, Italy, West Germany, France, the United Kingdom, Canada, and the United States.

This year the European, Trevi ministers met at the Hague with Attorney General Meese and myself to focus on counterterrorist accords.

One of the points I tried to make at the Hague—which came just a week or two after the American incursion into Libya in retaliation for La Belle Discotehque—was that the European countries each came up with a different threat assessment about Libya. And when they put all their assessments together, they realized that significant things were happening. They saw that Libyan terrorists were no longer focusing upon Libyan dissidents but were concertedly seeking to achieve high-casualty incidents in various parts of Europe. Having arrived at a consensus, they began to take more concerted and effective action in reducing their Libyan presence and in developing other techniques to protect against Libya. That is the product of multilateral efforts against terrorism.

Also in furtherance of international agreements, in June of this year, I headed the terrorism subgroup of the joint Italian-American working group in Rome—then hosted its second meeting just a few weeks ago in Washington.

Furthermore, aviation and maritime security standards have tightened considerably, thanks to the efforts of the International Civil Aviation Organization and the International Maritime Organization.

And, finally, extradition loopholes are being closed. Today, for example, we seen the resolution of an extradition treaty revision between the United Kingdom and ourselves which now improves our ability to return Irish terrorists for trial in England.

These steps are encouraging and show that progress will continue to be made. But much remains to be done. Certainly in the United Nations we should be able to craft an official definition of the crime of terrorism that, universally accepted, would give teeth to today's resolutions condemning it. Many of the United Nation's resolutions are great in word and spirit, but because they lack definition, they result in a haranguing confusion when specific efforts are brought to bear.

Certainly we should extend the process of agreements among nations and their law enforcement agencies to share resources, cooperate, and avoid duplication of effort.

Certainly we should establish a consolidated intelligence center on international terrorism, as recommended by the Vice President's Commission on Combatting, Terrorism.

And certainly we should study further the relationship between terrorism and international law to determine how law can assist, rather than block, efforts to respond to acts of terrorism.

Our successes in foreign counterintelligence and counterterrorism demonstrate, I believe, that enhanced resources, better coordination, and increased government support most effectively combat the crimes of espionage and terrorism. And to these I would add two words because they are everything in this area: Better intelligence.

Again and again I find myself repeating the words "cooperation," sharing resources," and "support." We could not do our job without your critical intelligence support, and for that I thank you. Only organized efforts against organized criminal enterprises will keep our country safe and free.

Thank you.

APPENDIX

U.S DEPARTMENT OF JUSTICE,
FEDERAL BUREAU OF INVESTIGATION,
Washington, DC, April 29, 1987.

Hon. DAVID L. BOREN,
Chairman, Select Committee on Intelligence,
Senate, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed you will find answers to 12 record questions raised during hearings, on my nomination as Director of Central Intelligence before the Committee on April 8 and 9, 1987.

Please feel free to contact me or my staff should any further clarification be required on these answers or any answers which I provided to the Committee during the hearings.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.

Enclosure (11).

Question. What is the date of the Beirut bombing?

Answer. The American Embassy, Beirut, Lebanon, was bombed on April 18, 1983; on October 23, 1983, the United States Marine Corps Barracks, Beirut, Lebanon, was bombed and on September 20, 1984, the American Embassy Annex, Beirut, Lebanon, was bombed.

Question. Did you have in your possession the 1/10/81 teletype from FBI New York concerning Raymond Donovan when the FBI reports on his background investigation went to the White House? Was the 1/10/81 teletype in the possession of FBIHQ (Senator DeConcini stated "I am concerned about this type of information, maybe it wasn't sent to Headquarters.")

Answer. The New York Division January 10, 1981 teletype, mentioned by Senator DeConcini, was received at FBI Headquarters after the summarization of the background investigation of Raymond J. Donovan was disseminated to the White House (January 5, 1981). Additional disseminations were made on January 7th, 12th, 14th, 16th and 23rd to convey information received at FBI Headquarters after the background investigation had been completed. Information contained in the January 10th teletype was discussed with the White House by telephone on January 11th and the established practice at that time of summarizing details and furnishing in a collective form the substance of allegations that bear on the same or similar issues was followed regarding the January 12th, and January 23rd documents. Currently, the FBI provides the White House with a summary memorandum and with the full text of interviews containing derogatory information to prevent any potential for summarization shortcomings.

Records indicate that the summaries of January 5th, 7th, 12th, 14th, and 16th were released without the Director's participation. The dissemination of the January 23rd summary occurred with his authorization. No indication is evident that the Director saw the January 10th teletype before the Senate confirmation vote of Raymond Donovan (February 2, 1981).

Question. Would you supply a list of the changes made in background investigations as a result of the lessons learned in the Donovan case?

Answer. The background investigation process is under frequent review to ensure that these investigations are conducted in a thorough and impartial manner. There have been many improvements in this process over the past five years, the most significant of which are:

The units at FBI Headquarters which direct these investigations have been restructured to provide an additional level of review and control of the investigations.

An automated case management system has been implemented which substantially enhances supervision of these cases.

The scope of internal FBI indices checks has been expanded to identify all retrievable information regarding a candidate.

Reporting rules have been strengthened to ensure that all information developed by field offices is available to FBI Headquarters.

The scope of agency checks has been broadened to include any local, state or Federal entity which might logically possess information regarding a candidate or the candidate's businesses.

Investigative policies stress the full development of the factual situations which lead persons interviewed to arrive at their views regarding a candidates suitability.

Whenever interview reports are found to contain derogatory information the reports themselves are sent to the White House along with the usual summary of investigations.

Some of these changes have resulted as part of a FBI-Department of Justice study of the background process in 1982 and 1983, and other changes resulted from frequent reviews of the program by FBI managers and executives. This evolutionary process includes input from the agencies served, from the intelligence community as a whole, and the Congress. For example, the FBI has improved its procedures for examining the issue of a candidate's financial responsibility as a result of a recent report and request of the House Permanent Select Committee on Intelligence.

Question. Would the FBI consult with the Department of Justice (DOJ) in order to determine whether the provisions of the criminal statutes relating to gross negligence and mishandling of classified information would apply to the security breaches at the Moscow Embassy?

Answer. Assistant Director James H. Geer of the FBI's Intelligence Division has held discussions with the appropriate official within the DOJ concerning whether any acts which occurred in connection with the security breach at the Moscow Embassy would constitute a violation of Federal criminal law within the FBI's jurisdiction. Further, an FBI Agent has been assigned full time to the Naval Investigative Service (NIS) task force charged with coordinating the investigation surrounding the events at the Moscow Embassy. One of the tasks of this Agent is to closely scrutinize information coming out of the NIS investigation to determine whether additional violations exist falling within the FBI's jurisdiction.

The specific statute to which Senator Hollings made reference is 18 U.S.C. 793 (f), which states in part "Whoever, being entrusted with or having lawful possession or control of . . . information, relating to the national defense, (1) through gross negligence permits the same to be removed from its proper place of custody or delivered to anyone in violation of his trust, or to be lost, stolen, abstracted, or destroyed . . . Shall be fined not more than $10,000 or imprisoned not more than ten years, or both." Gross negligence, according to the Justice Department official, would require wanton and reckless disregard for security procedures and practices and neither the FBI nor the DOJ is in possession of information of this nature.

The President has, of course, appointed two separate groups to review the Moscow Embassy situation and one of these groups will certainly be examining the management and security procedures and practices in the Embassy. Should this review determine information that would appear to fall within the provisions of this statute, it will be pursued appropriately.

Question. Did the FBI open a bribery investigation on Las Vegas Detective Chuck Lee, a polygraph operator who had earlier cleared Judge Claiborne of other allegations?

Answer. In September, 1979, the Las Vegas Division of the FBI initiated an investigation into an allegation that Private Detective Eddie Gene LaRue was engaged in illegal wiretapping. A search was made of the names and businesses previously indexed in prior FBI investigations and as a result of that search, one LaRue reference was located.

It indicated that on May 23, 1978, Daniel Patrick Bohan, Jr., voluntarily appeared at the Las Vegas FBI Office to furnish information regarding Federal Judgeship candidate Harry Claiborne. Bohan stated that prior to their marriage, Harry Claiborne had made attempts to date his future wife Bonnie Jenson. Bohan claimed that Claiborne directed the illegal wiretapping of his (Bohan's) residence in July, 1977, which was reported to the Las Vegas Metropolitan Police Department (LVMPD). To corroborate Bohan's statements, the FBI contacted the LVMPD. The LBMPD investigation indicated that, at Claiborne's request, a polygraph examination was afforded to Claiborne on September 23, 1977. The polygraph showed no signs of deception in Claiborne's answers to questions of wiretapping Bohan. Their investigation was stopped by former Sheriff Ralph Lamb. This information was filed along with the results of the FBI background investigation for Harry Claiborne's Federal judgeship nomination.

The FBI's LaRue investigation continued and LaRue's AGR Detective Agency employees stated LaRue had been hired by Claibone to wiretap the Bohan residence.

LVMPD's polygraph examiner, Chuck Lee, was interviewed by the FBI. Lee stated Claiborne's polygraph examination indicated no deception. A copy of that examination was obtained and examined by the FBI Headquarters (FBIHQ) Polygraph Unit. The FBIHQ Polygraph Unit determined that Lee's examination indicated Claiborne's deception in responding to questions about the wiretapping. A second polygraph examination of Claiborne by Lee appeared to be mechanically manipulated and was found to be inconclusive by the FBIHQ Polygraph Unit.

The FBI investigation resulted in LaRue being indicted on August 27, 1980, by a Las Vegas Federal grand jury for a one-count violation of Interception of Oral Communication by Means of an Electronic Device (Title 18, United States Code, Section 2511 (1)(13)(II), and four counts of violation of Intercepting Wire Communications by Means of an Electronic Device (Section 2511 (1)(A), supra). Motions and appeals filed by LaRue's attorneys delayed the start of the trial until February 2, 1982. The delay resulted in an inability to locate some witnesses and for others to withdraw their cooperation. LaRue was acquitted on February 10, 1982. This matter was prosecuted by the Department of Justice, Public Integrity Section (PIS). Claiborne was not prosecuted because PIS opined that the evidentiary case was too weak to go forward. No opinion was obtained from PIS concerning Lee in this case.

In a separate investigation, the LVMPD advised in November, 1980, that they suspected Chuck Lee to be cooperating with organized crime figures to either cover up or sabotage certain LVMPD organized crime investigations. The LVMPD provided a large number of Lee's polygraph examinations. These were reviewed by the FBIHQ Polygraph Unit, and a significant percentage were found to indicate deception while Lee had reported no deception.

Lee resigned from LVMPD in January 1983, and accepted a similar position with the Clark County, Nevada District Attorney's Office.

The results of the FBI investigation into Lee's activities were presented the Department of Justice Organized Crime Strike Force in Las Vegas, in March, 1983, for a prosecutive opinion. Prosecution was declined based on the opinion that there was insufficient evidence to support Federal prosecution. The FBI investigation of Lee was closed.

Question. What was offered to Joseph Conforte by the Government in return for his cooperation in the Claiborne case?

Answer. Attached is the December 15, 1983 agreement between Joseph Conforte and the Criminal Division of the Department of Justice.

In addition, we have been advised by the Department of Justice that no Federal tax break was afforded to Mr. Conforte.

U.S. Department of Justice,
Washington, D.C., December 15, 1983.

Re Joseph Conforte.
Peter Perry, Esq.
Reno, NV.

The undersigned parties have engaged in discussions regarding the matters set forth below. An agreement as outlined herein was reached on December 4, 1983, and is reduced to writing here for the first time. Other than the use immunity granted to Mr. Conforte in November 1981, this is the only agreement the Department of Justice has ever reached with your client.

This letter sets forth the full and complete agreement between Joseph Conforte and the Department of Justice.

1. Joseph Conforte has, pursuant to the terms of this agreement, returned to the United States, having resided for several years in a country from which extradition could not have been obtained in the United States;

2. Joseph Conforte will continue to cooperate fully with all law enforcement agencies, providing candid and truthful information, and will testify candidly and truthfully in all court proceedings and before grand and petit juries, on all occasions on which his cooperation is sought;

3. The Department of Justice will recommend to a United States District Court Judge that Joseph Conforte be resentenced in the following manner with regard to the sentence previously imposed in *United States* v. *Joseph Conforte,* et al., CR-77-00024, United States District Court, District of Nevada; CR-83-0316, United States District Court, District of Columbia;

(a) A five year sentence on each of the four counts of which Mr. Conforte was convicted should be imposed, to be served concurrently with each other;

(b) All but 15 months of each of the five year sentences should be suspended, on the condition that Mr. Conforte shall, for the full five year period, cooperate fully with all law enforcement agencies, and testify candidly and truthfully in all court proceedings and before all grand and petit juries on all occasions on which his cooperation is sought with regard to matters he has previously related to the Department of Justice;

(c) Any sentence that may be imposed by the court should be ordered, to the extend possible, to be served concurrently with any sentence imposed by the State of Nevada with reference to paragraph no. 5 hereof; and

(d) Any sentence imposed in this matter should, for purposes of computing the he time served, be deemed to have commenced on December 4, 1983.

4. The Department of Justice will recommend to a United States District Court Judge that a certain indictment, captioned *United States* v. *Joseph Conforte*, CR. No. R-81-9-ECR, charging Mr. Conforte with having failed to appear for his sentencing with regard to the employment withholding tax violations outlined in paragraph No. 3 hereof, be dismissed;

5. The Department of Justice has, and will continue to provide information to assist the District Attorney for Washoe County, Nevada to reach an appropriate plea agreement with Mr. Conforte with regard to the disposition of an indictment pending in Washoe County, Nevada and associated flight changes; and

6. The Department of Justice will not use any statement made by Joseph Conforte against him in any future criminal prosecution; except that, in the event Mr. Conforte is believed to have testified falsely under oath, or to have intentionally made false statements to law enforcement agencies, those statements can, and will be used against him in criminal prosecutions for perjury and/or false statements.

Mr. Conforte understands that the recommendations the Department of Justice agrees to make to the court as outlined in paragraphs 3 and 4 hereof are not binding upon the court. Whether or not the court chooses to accept the Department's recommendations, Mr. Conforte's obligations as set forth herein shall remain in full force and effect.

This agreement does not relate in any way to any civil, administrative, tax or bankruptcy proceedings to which Mr. Conforte may presently be, or in the future may become a party.

Mr. Conforte shall not receive financial benefit of any kind because of this agreement. The amount of any tax liability that Mr. Conforte may owe to the U.S. Treasury shall be determined between the Internal Revenue Service and/or the Tax Division, U.S. Department of Justice and himself. This agreement shall not favorably influence the determination of such tax liability. In fact, as Mr. Conforte believes, his cooperation as set forth herein has and may continue to detrimentally influenced the government's determination of such liability.

The parties understand that the terms of this agreement shall remain in full force and effect regardless of whether any person is convicted of federal offenses as a result of Mr. Conforte's cooperation and testimony. Mr. Conforte therefore has no incentive, financial or otherwise, to testify other than truthfully.

The conditions and location of Mr. Conforte's incarceration shall be determined exclusively by the United States, which has not made any agreement with respect to such matters.

No promises have been, or will be made to Mr. Conforte with respect to the terms and conditions of his release; such matters being within the exclusive jurisdiction of the U.S. Parole Commission.

This is the entire agreement between the Criminal Division of the Department of Justice and Joseph Conforte. No other promises, representations or inducements, written or oral, have been made between the parties.

Sincerely,

STEVEN A. SHAW,
Public Integrity Section Criminal Division.

Question. Did the FBI conduct a sting operation against the regional director of the Internal Revenue Service (IRS) in Las Vagas in relation to the Judge Claiborne case?

Answer. In February, 1982, the IRS Inspection Division, Las Vegas, Nevada, notified the FBI in Las Vegas, Nevada, that a complaint had been received alleging that then IRS District Director Gerald Swanson may be involved in soliciting a bribe from Joseph Conforte, owner of the Mustang Ranch in Reno, Nevada, who was then in the midst of criminal tax problems with the IRS.

The IRS received the complaint from Peter Perry, a Reno, Nevada attorney representing Conforte before the IRS. Perry informed the IRS that Peter Lemberes, a codefendant in a state bribery matter at Reno, told him that Alex Lemberes, his brother, could reduce Joseph Conforte's tax liability from $7 million to $3.5 million in return for ten percent of the reduction or $350,000. Peter Lemberes described Alex Lemberes as the best friend of IRS District Director Swanson.

Investigation was initiated by the IRS to determine whether Swanson had been involved in the unauthorized disclosure of IRS information to Alex and/or Peter Lemberes. The IRS requested FBI assistance with respect to whether Swanson had been involved in bribe solicitation. By agreement, the FBI's role was limited mainly to technical and surveillance support.

The investigation did not develop evidence to support involvement by Swanson in bribe solicitation. Accordingly, the Public Integrity Section, Department of Justice, declined to consider prosecution of Swanson.

Alex and Peter Lemberes were indicted by the Federal grand jury, Reno, Nevada, in July, 1982, for their involvement in this matter. Alex Lemberes was charged with conspiracy and perjury violations; Peter Lemberes was charged with conspiracy, perjury, and obstruction of justice violations. In November, 1982, Alex Lemberes plead guilty to misdemeanor conspiracy. In December, 1982, Peter Lemberes plead guilty to perjury and obstruction of justice.

Subsequent to the investigation, IRS District Director Gerald Swanson was transferred by the IRS out-of-state.

During the prosecution of Claiborne and the Senate Impeachment proceedings, defense counsel unsuccessfully alleged that the FBI had focused on Swanson to pressure him into granting tax relief to Joseph Conforte as an incentive for Conforte's cooperation with the FBI in the Claiborne investigation.

QUESTION FOR JUDGE WEBSTER FROM SENATOR ROTH

1. As you recall, the Permanent Subcommittee on Investigations held a hearing last year on the Justice Department's and the FBI's handling of the Jackie Presser investigation. We got good cooperation from the Justice Department and the Labor Department, but we were essentially "stonewalled" by the FBI. We received no access to FBI witnesses and virtually no access to FBI documents which we requested. I and the other members of the Subcommitte found this very disturbing. Do you have any explanation and do you plan to respond to Congressional requests for information from the CIA in the same manner?

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